

As Passed by the House

126th General Assembly

Regular Session

2005-2006

Am. Sub. H. B. No. 66

Representatives Calvert, Flowers, Martin, McGregor, Peterson, Schlichter,
Webster, Aslanides, Blasdel, Coley, Collier, Combs, DeWine, Dolan,
C. Evans, D. Evans, Hagan, Kearns, Kilbane, Law, T. Patton, Seaver, Setzer,
Wagoner, White, Widowfield Speaker Husted

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amend Section 5 of Am. Sub. S.B. 50 of the 121st 200
General Assembly, as subsequently amended; and to 201
repeal Sections 59.19 and 147 of Am. Sub. H.B. 95 202
of the 125th General Assembly to make operating 203
appropriations for the biennium beginning July 1, 204
2005 and ending June 30, 2007, and to provide 205
authorization and conditions for the operation of 206
state programs, and to further amend sections 207
3215.18, 5101.35, 5101.80, 5101.801, and 5153.16 208
of the Revised Code on January 1, 2006, to provide 209
authorization and continuation for the operation 210
of certain state programs, and to repeal Section 211
553.01 of this act on December 16, 2005. 212

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, 213
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5747.70, 5747.80, 5747.98, 5748.01, 5748.02, 5748.03, 5748.04, 301
5748.08, 5749.02, 5919.33, 5920.01, 6109.21, and 6111.02, be 302
amended; that sections 181.251 (5502.63), 181.51 (5502.61), 181.52 303
(5502.62), 181.54 (5502.64), 181.55 (5502.65), 181.56 (5502.66), 304
3317.21 (3318.47), 3317.22 (3318.48), 3317.23 (3318.49), 5101.75 305
(173.42), 5101.752 (173.43), 5111.02 (5111.021), 5111.021 306
(5111.022), 5111.022 (5111.023), 5111.023 (5111.0114), 5111.112 307
(5111.113), 5111.113 (5111.114), 5111.231 (5111.232), 5111.257 308
(5111.258), 5111.88 (5111.97), 5111.97 (5111.86), 5121.01 309
(5121.02), 5121.02 (5121.03), and 5121.03 (5121.01) be amended for 310
the purpose of adopting new section numbers as indicated in 311

parentheses; that new sections 5111.02, 5111.112, 5111.231, 312
5111.257, and 5111.262 and sections 9.901, 117.162, 120.36, 313
121.381, 121.382, 121.403, 122.083, 125.18, 131.022, 131.46, 314
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5751.50, 5751.51, 5751.52, 5751.98, 5751.99, 5919.31, 5919.341, 344
6111.0210, 6111.0211, 6111.0212, and 6111.0213 of the Revised Code 345
be enacted to read as follows: 346

Sec. 9.06. (A)(1) The department of rehabilitation and 347
correction shall contract for the private operation and management 348
pursuant to this section of the initial intensive program prison 349
established pursuant to section 5120.033 of the Revised Code and 350
may contract for the private operation and management of any other 351
facility under this section. Counties and municipal corporations 352
to the extent authorized in sections 307.93, 341.35, 753.03, and 353
753.15 of the Revised Code, may contract for the private operation 354
and management of a facility under this section. A contract 355
entered into under this section shall be for an initial term of 356
not more than two years, with an option to renew for additional 357
periods of two years. 358

(2) The department of rehabilitation and correction, by rule, 359
shall adopt minimum criteria and specifications that a person or 360
entity, other than a person or entity that satisfies the criteria 361
set forth in division (A)(3)(a) of this section and subject to 362
division (I) of this section, must satisfy in order to apply to 363
operate and manage as a contractor pursuant to this section the 364
initial intensive program prison established pursuant to section 365
5120.033 of the Revised Code. 366

(3) Subject to division (I) of this section, any person or 367
entity that applies to operate and manage a facility as a 368
contractor pursuant to this section shall satisfy one or more of 369
the following criteria: 370

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

American correctional association. 374

(b) The person or entity satisfies all of the minimum 375
criteria and specifications adopted by the department of 376
rehabilitation and correction pursuant to division (A)(2) of this 377
section, provided that this alternative shall be available only in 378
relation to the initial intensive program prison established 379
pursuant to section 5120.033 of the Revised Code. 380

(4) Subject to division (I) of this section, before a public 381
entity may enter into a contract under this section, the 382
contractor shall convincingly demonstrate to the public entity 383
that it can operate the facility with the inmate capacity required 384
by the public entity and provide the services required in this 385
section and realize at least a five per cent savings or, regarding 386
contracts entered into or renewed on or after the effective date 387
of this amendment, at least a ten per cent savings over the 388
projected cost to the public entity of providing these same 389
services to operate the facility that is the subject of the 390
contract. No out-of-state prisoners may be housed in any facility 391
that is the subject of a contract entered into under this section. 392

(B) Subject to division (I) of this section, any contract 393
entered into under this section shall include all of the 394
following: 395

(1) A requirement that the contractor retain the contractor's 396
accreditation from the American correctional association 397
throughout the contract term or, if the contractor applied 398
pursuant to division (A)(3)(b) of this section, continue complying 399
with the applicable criteria and specifications adopted by the 400
department of rehabilitation and correction pursuant to division 401
(A)(2) of this section; 402

(2) A requirement that all of the following conditions be 403
met: 404

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

(b) The contractor receives accreditation of the facility within twelve months after the date the contractor applies to the American correctional association for accreditation.

(c) Once the accreditation is received, the contractor maintains it for the duration of the contract term.

(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.

(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.

(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;

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(5) A requirement that the contractor immediately report all
escapes from the facility, and the apprehension of all escapees,
by telephone and in writing to all local law enforcement agencies
with jurisdiction over the place at which the facility is located,
to the prosecuting attorney of the county in which the facility is
located, to the state highway patrol, to a daily newspaper having
general circulation in the county in which the facility is
located, and, if the facility is a state correctional institution,
to the department of rehabilitation and correction. The written
notice may be by either facsimile transmission or mail. A failure
to comply with this requirement regarding an escape is a violation
of section 2921.22 of the Revised Code.

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

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

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(8) A requirement that the contractor prepare and distribute 467
to the director of rehabilitation and correction or, if 468
contracting with a local public entity, to the governing authority 469
of the local entity, annual budget income and expenditure 470
statements and funding source financial reports; 471

(9) A requirement that the public entity appoint and 472
supervise a full-time contract monitor, that the contractor 473
provide suitable office space for the contract monitor at the 474
facility, and that the contractor allow the contract monitor 475
unrestricted access to all parts of the facility and all records 476
of the facility except the contractor's financial records; 477

(10) A requirement that if the facility is a state 478
correctional institution, designated department of rehabilitation 479
and correction staff members be allowed access to the facility in 480
accordance with rules promulgated by the department; 481

(11) A requirement that the contractor provide internal and 482
perimeter security as agreed upon in the contract; 483

(12) If the facility is a state correctional institution, a 484
requirement that the contractor impose discipline on inmates 485
housed in a state correctional institution, only in accordance 486
with rules promulgated by the department of rehabilitation and 487
correction; 488

(13) A requirement that the facility be staffed at all times 489
with a staffing pattern approved by the public entity and adequate 490
both to ensure supervision of inmates and maintenance of security 491
within the facility, and to provide for programs, transportation, 492
security, and other operational needs. In determining security 493
needs, the contractor shall be required to consider, among other 494
things, the proximity of the facility to neighborhoods and 495
schools. 496

(14) If the contract is with a local public entity, a 497

requirement that the contractor provide services and programs, 498
consistent with the minimum standards for jails promulgated by the 499
department of rehabilitation and correction under section 5120.10 500
of the Revised Code; 501

(15) A clear statement that no immunity from liability 502
granted to the state, and no immunity from liability granted to 503
political subdivisions under Chapter 2744. of the Revised Code, 504
shall extend to the contractor or any of the contractor's 505
employees; 506

(16) A statement that all documents and records relevant to 507
the facility shall be maintained in the same manner required for, 508
and subject to the same laws, rules, and regulations as apply to, 509
the records of the public entity; 510

(17) Authorization for the public entity to impose a fine on 511
the contractor from a schedule of fines included in the contract 512
for the contractor's failure to perform its contractual duties, or 513
to cancel the contract, as the public entity considers 514
appropriate. If a fine is imposed, the public entity may reduce 515
the payment owed to the contractor pursuant to any invoice in the 516
amount of the imposed fine. 517

(18) A statement that all services provided or goods produced 518
at the facility shall be subject to the same regulations, and the 519
same distribution limitations, as apply to goods and services 520
produced at other correctional institutions; 521

(19) Authorization for the department to establish one or 522
more prison industries at a facility operated and managed by a 523
contractor for the department; 524

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

section;

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

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(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:

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(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;

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(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;

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(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

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good time, approving the good time, if any, that may be awarded to 560
inmates engaging in work, and granting, denying, or revoking good 561
time; 562

(4) For inmates serving a term imposed for a felony offense 563
committed on or after July 1, 1996, extending an inmate's term 564
pursuant to the provisions of law governing bad time; 565

(5) Classifying an inmate or placing an inmate in a more or a 566
less restrictive custody than the custody ordered by the public 567
entity; 568

(6) Approving inmates for work release; 569

(7) Contracting for local or long distance telephone services 570
for inmates or receiving commissions from those services at a 571
facility that is owned by or operated under a contract with the 572
department. 573

(D) A contractor that has been approved to operate a facility 574
under this section, and a person or entity that enters into a 575
contract for specialized services, as described in division (I) of 576
this section, relative to an intensive program prison established 577
pursuant to section 5120.033 of the Revised Code to be operated by 578
a contractor that has been approved to operate the prison under 579
this section, shall provide an adequate policy of insurance 580
specifically including, but not limited to, insurance for civil 581
rights claims as determined by a risk management or actuarial firm 582
with demonstrated experience in public liability for state 583
governments. The insurance policy shall provide that the state, 584
including all state agencies, and all political subdivisions of 585
the state with jurisdiction over the facility or in which a 586
facility is located are named as insured, and that the state and 587
its political subdivisions shall be sent any notice of 588
cancellation. The contractor may not self-insure. 589

A contractor that has been approved to operate a facility 590

under this section, and a person or entity that enters into a 591
contract for specialized services, as described in division (I) of 592
this section, relative to an intensive program prison established 593
pursuant to section 5120.033 of the Revised Code to be operated by 594
a contractor that has been approved to operate the prison under 595
this section, shall indemnify and hold harmless the state, its 596
officers, agents, and employees, and any local government entity 597
in the state having jurisdiction over the facility or ownership of 598
the facility, shall reimburse the state for its costs in defending 599
the state or any of its officers, agents, or employees, and shall 600
reimburse any local government entity of that nature for its costs 601
in defending the local government entity, from all of the 602
following: 603

(1) Any claims or losses for services rendered by the 604
contractor, person, or entity performing or supplying services in 605
connection with the performance of the contract; 606

(2) Any failure of the contractor, person, or entity or its 607
officers or employees to adhere to the laws, rules, regulations, 608
or terms agreed to in the contract; 609

(3) Any constitutional, federal, state, or civil rights claim 610
brought against the state related to the facility operated and 611
managed by the contractor; 612

(4) Any claims, losses, demands, or causes of action arising 613
out of the contractor's, person's, or entity's activities in this 614
state; 615

(5) Any attorney's fees or court costs arising from any 616
habeas corpus actions or other inmate suits that may arise from 617
any event that occurred at the facility or was a result of such an 618
event, or arise over the conditions, management, or operation of 619
the facility, which fees and costs shall include, but not be 620
limited to, attorney's fees for the state's representation and for 621

any court-appointed representation of any inmate, and the costs of 622
any special judge who may be appointed to hear those actions or 623
suits. 624

(E) Private correctional officers of a contractor operating 625
and managing a facility pursuant to a contract entered into under 626
this section may carry and use firearms in the course of their 627
employment only after being certified as satisfactorily completing 628
an approved training program as described in division (A) of 629
section 109.78 of the Revised Code. 630

(F) Upon notification by the contractor of an escape from, or 631
of a disturbance at, the facility that is the subject of a 632
contract entered into under this section, the department of 633
rehabilitation and correction and state and local law enforcement 634
agencies shall use all reasonable means to recapture escapees or 635
quell any disturbance. Any cost incurred by the state or its 636
political subdivisions relating to the apprehension of an escapee 637
or the quelling of a disturbance at the facility shall be 638
chargeable to and borne by the contractor. The contractor shall 639
also reimburse the state or its political subdivisions for all 640
reasonable costs incurred relating to the temporary detention of 641
the escapee following recapture. 642

(G) Any offense that would be a crime if committed at a state 643
correctional institution or jail, workhouse, prison, or other 644
correctional facility shall be a crime if committed by or with 645
regard to inmates at facilities operated pursuant to a contract 646
entered into under this section. 647

(H) A contractor operating and managing a facility pursuant 648
to a contract entered into under this section shall pay any inmate 649
workers at the facility at the rate approved by the public entity. 650
Inmates working at the facility shall not be considered employees 651
of the contractor. 652

(I) In contracting for the private operation and management 653
pursuant to division (A) of this section of the initial intensive 654
program prison established pursuant to section 5120.033 of the 655
Revised Code or of any other intensive program prison established 656
pursuant to that section, the department of rehabilitation and 657
correction may enter into a contract with a contractor for the 658
general operation and management of the prison and may enter into 659
one or more separate contracts with other persons or entities for 660
the provision of specialized services for persons confined in the 661
prison, including, but not limited to, security or training 662
services or medical, counseling, educational, or similar treatment 663
programs. If, pursuant to this division, the department enters 664
into a contract with a contractor for the general operation and 665
management of the prison and also enters into one or more 666
specialized service contracts with other persons or entities, all 667
of the following apply: 668

(1) The contract for the general operation and management 669
shall comply with all requirements and criteria set forth in this 670
section, and all provisions of this section apply in relation to 671
the prison operated and managed pursuant to the contract. 672

(2) Divisions (A)(2), (B), and (C) of this section do not 673
apply in relation to any specialized services contract, except to 674
the extent that the provisions of those divisions clearly are 675
relevant to the specialized services to be provided under the 676
specialized services contract. Division (D) of this section 677
applies in relation to each specialized services contract. 678

(J) As used in this section: 679

(1) "Public entity" means the department of rehabilitation 680
and correction, or a county or municipal corporation or a 681
combination of counties and municipal corporations, that has 682
jurisdiction over a facility that is the subject of a contract 683

entered into under this section. 684

(2) "Local public entity" means a county or municipal 685
corporation, or a combination of counties and municipal 686
corporations, that has jurisdiction over a jail, workhouse, or 687
other correctional facility used only for misdemeanants that is 688
the subject of a contract entered into under this section. 689

(3) "Governing authority of a local public entity" means, for 690
a county, the board of county commissioners; for a municipal 691
corporation, the legislative authority; for a combination of 692
counties and municipal corporation, all the boards of county 693
commissioners and municipal legislative authorities that joined to 694
create the facility. 695

(4) "Contractor" means a person or entity that enters into a 696
contract under this section to operate and manage a jail, 697
workhouse, or other correctional facility. 698

(5) "Facility" means the specific county, multicounty, 699
municipal, municipal-county, or multicounty-municipal jail, 700
workhouse, prison, or other type of correctional institution or 701
facility used only for misdemeanants, or a state correctional 702
institution, that is the subject of a contract entered into under 703
this section. 704

(6) "Person or entity" in the case of a contract for the 705
private operation and management of a state correctional 706
institution, includes an employee organization, as defined in 707
section 4117.01 of the Revised Code, that represents employees at 708
state correctional institutions. 709

Sec. 9.24. (A) Except as may be allowed under division (F) of 710
this section, no state agency and no political subdivision shall 711
award a contract as described in division (G)(1) of this section 712
for goods, services, or construction, paid for in whole or in part 713

with state funds, to a person against whom a finding for recovery 714
has been issued by the auditor of state on and after January 1, 715
2001, if the finding for recovery is unresolved. 716

A contract is considered to be awarded when it is entered 717
into or executed, irrespective of whether the parties to the 718
contract have exchanged any money. 719

(B) For purposes of this section, a finding for recovery is 720
unresolved unless one of the following criteria applies: 721

(1) The money identified in the finding for recovery is paid 722
in full to the state agency or political subdivision to whom the 723
money was owed; 724

(2) The debtor has entered into a repayment plan that is 725
approved by the attorney general and the state agency or political 726
subdivision to whom the money identified in the finding for 727
recovery is owed. A repayment plan may include a provision 728
permitting a state agency or political subdivision to withhold 729
payment to a debtor for goods, services, or construction provided 730
to or for the state agency or political subdivision pursuant to a 731
contract that is entered into with the debtor after the date the 732
finding for recovery was issued. 733

(3) The attorney general waives a repayment plan described in 734
division (B)(2) of this section for good cause; 735

(4) The debtor and state agency or political subdivision to 736
whom the money identified in the finding for recovery is owed have 737
agreed to a payment plan established through an enforceable 738
settlement agreement. 739

(5) The state agency or political subdivision desiring to 740
enter into a contract with a debtor certifies, and the attorney 741
general concurs, that all of the following are true: 742

(a) Essential services the state agency or political 743

subdivision is seeking to obtain from the debtor cannot be 744
provided by any other person besides the debtor; 745

(b) Awarding a contract to the debtor for the essential 746
services described in division (B)(5)(a) of this section is in the 747
best interest of the state; 748

(c) Good faith efforts have been made to collect the money 749
identified in the finding of recovery. 750

(6) The debtor has commenced an action to contest the finding 751
for recovery and a final determination on the action has not yet 752
been reached. 753

(C) The attorney general shall submit an initial report to 754
the auditor of state, not later than December 1, 2003, indicating 755
the status of collection for all findings for recovery issued by 756
the auditor of state for calendar years 2001, 2002, and 2003. 757
Beginning on January 1, 2004, the attorney general shall submit to 758
the auditor of state, on the first day of every January, April, 759
July, and October, a list of all findings for recovery that have 760
been resolved in accordance with division (B) of this section 761
during the calendar quarter preceding the submission of the list 762
and a description of the means of resolution. The attorney general 763
shall notify the auditor of state when a judgment is issued 764
against an entity described in division (F)(1) of this section. 765

(D) The auditor of state shall maintain a database, 766
accessible to the public, listing persons against whom an 767
unresolved finding for recovery has been issued, and the amount of 768
the money identified in the unresolved finding for recovery. The 769
auditor of state shall have this database operational on or before 770
January 1, 2004. The initial database shall contain the 771
information required under this division for calendar years 2001, 772
2002, and 2003. 773

Beginning January 15, 2004, the auditor of state shall update 774

the database by the fifteenth day of every January, April, July, 775
and October to reflect resolved findings for recovery that are 776
reported to the auditor of state by the attorney general on the 777
first day of the same month pursuant to division (C) of this 778
section. 779

(E) Before awarding a contract as described in division 780
(G)(1) of this section for goods, services, or construction, paid 781
for in whole or in part with state funds, a state agency or 782
political subdivision shall verify that the person to whom the 783
state agency or political subdivision plans to award the contract 784
has no unresolved finding for recovery issued against the person. 785
A state agency or political subdivision shall verify that the 786
person does not appear in the database described in division (D) 787
of this section or shall obtain other proof that the person has no 788
unresolved finding for recovery issued against the person. 789

(F) The prohibition of division (A) of this section and the 790
requirement of division (E) of this section do not apply with 791
respect to the companies or agreements described in divisions 792
(F)(1) and (2) of this section, or in the circumstance described 793
in division (F)(3) of this section. 794

(1) A bonding company or a company authorized to transact the 795
business of insurance in this state, a self-insurance pool, joint 796
self-insurance pool, risk management program, or joint risk 797
management program, unless a court has entered a final judgment 798
against the company and the company has not yet satisfied the 799
final judgment. 800

(2) To medicaid provider agreements under Chapter 5111. of 801
the Revised Code ~~or payments or provider agreements under~~ 802
~~disability assistance medical assistance established under Chapter~~ 803
~~5115. of the Revised Code.~~ 804

(3) When federal law dictates that a specified entity provide 805

the goods, services, or construction for which a contract is being 806
awarded, regardless of whether that entity would otherwise be 807
prohibited from entering into the contract pursuant to this 808
section. 809

(G)(1) This section applies only to contracts for goods, 810
services, or construction that satisfy the criteria in either 811
division (G)(1)(a) or (b) of this ~~division~~ section. This section 812
may apply to contracts for goods, services, or construction that 813
satisfy the criteria in division (G)(1)(c) of this section, 814
provided that the contracts also satisfy the criteria in either 815
division (G)(1)(a) or (b) of this ~~division~~ section. 816

(a) The cost for the goods, services, or construction 817
provided under the contract is estimated to exceed twenty-five 818
thousand dollars. 819

(b) The aggregate cost for the goods, services, or 820
construction provided under multiple contracts entered into by the 821
particular state agency and a single person or the particular 822
political subdivision and a single person within the fiscal year 823
preceding the fiscal year within which a contract is being entered 824
into by that same state agency and the same single person or the 825
same political subdivision and the same single person, exceeded 826
fifty thousand dollars. 827

(c) The contract is a renewal of a contract previously 828
entered into and renewed pursuant to that preceding contract. 829

(2) This section does not apply to employment contracts. 830

(H) As used in this section: 831

(1) "State agency" has the same meaning as in section 9.66 of 832
the Revised Code. 833

(2) "Political subdivision" means a political subdivision as 834
defined in section 9.82 of the Revised Code that has received more 835

than fifty thousand dollars of state money in the current fiscal year or the preceding fiscal year. 836
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(3) "Finding for recovery" means a determination issued by the auditor of state, contained in a report the auditor of state gives to the attorney general pursuant to section 117.28 of the Revised Code, that public money has been illegally expended, public money has been collected but not been accounted for, public money is due but has not been collected, or public property has been converted or misappropriated. 838
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(4) "Debtor" means a person against whom a finding for recovery has been issued. 845
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(5) "Person" means the person named in the finding for recovery. 847
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(6) "State money" does not include funds the state receives from another source and passes through to a political subdivision. 849
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Sec. 9.833. (A) As used in this section, "political subdivision" means a municipal corporation, township, county, ~~school district,~~ or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state, and agencies and instrumentalities of these entities. For purposes of this section, a school district is not a "political subdivision." 851
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(B) Political subdivisions that provide health care benefits for their officers or employees may do any of the following: 858
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(1) Establish and maintain an individual self-insurance program with public moneys to provide authorized health care benefits, including but not limited to, health care, prescription drugs, dental care, and vision care, in accordance with division (C) of this section; 860
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(2) After establishing an individual self-insurance program, 865

agree with other political subdivisions that have established 866
individual self-insurance programs for health care benefits, that 867
their programs will be jointly administered in a manner specified 868
in the agreement; 869

(3) Pursuant to a written agreement and in accordance with 870
division (C) of this section, join in any combination with other 871
political subdivisions to establish and maintain a joint 872
self-insurance program to provide health care benefits; 873

(4) Pursuant to a written agreement, join in any combination 874
with other political subdivisions to procure or contract for 875
policies, contracts, or plans of insurance to provide health care 876
benefits for their officers and employees subject to the 877
agreement; 878

(5) Use in any combination any of the policies, contracts, 879
plans, or programs authorized under this division. 880

(C) Except as otherwise provided in division (E) of this 881
section, the following apply to individual or joint self-insurance 882
programs established pursuant to this section: 883

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

described in division (C)(3) of this section.

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

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

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

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

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

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

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(7) Two or more political subdivisions may also authorize the

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establishment and maintenance of a joint health care cost 959
containment program, including, but not limited to, the employment 960
of risk managers, health care cost containment specialists, and 961
consultants, for the purpose of preventing and reducing health 962
care costs covered by insurance, individual self-insurance, or 963
joint self-insurance programs. 964

(8) A political subdivision is not liable under a joint 965
self-insurance program for any amount in excess of amounts payable 966
pursuant to the written agreement for the participation of the 967
political subdivision in the joint self-insurance program. Under a 968
joint self-insurance program agreement, a political subdivision 969
may, to the extent permitted under the written agreement, assume 970
the risks of any other political subdivision. A joint 971
self-insurance program established under this section is deemed a 972
separate legal entity for the public purpose of enabling the 973
members of the joint self-insurance program to obtain insurance or 974
to provide for a formalized, jointly administered self-insurance 975
fund for its members. An entity created pursuant to this section 976
is exempt from all state and local taxes. 977

(9) Any political subdivision, other than an agency or 978
instrumentality, may issue general obligation bonds, or special 979
obligation bonds that are not payable from real or personal 980
property taxes, and may also issue notes in anticipation of such 981
bonds, pursuant to an ordinance or resolution of its legislative 982
authority or other governing body for the purpose of providing 983
funds to pay expenses associated with the settlement of claims, 984
whether by way of a reserve or otherwise, and to pay the political 985
subdivision's portion of the cost of establishing and maintaining 986
an individual or joint self-insurance program or to provide for 987
the reserve in the special fund authorized by division (C)(2) of 988
this section. 989

In its ordinance or resolution authorizing bonds or notes 990

under this section, a political subdivision may elect to issue 991
such bonds or notes under the procedures set forth in Chapter 133. 992
of the Revised Code. In the event of such an election, 993
notwithstanding Chapter 133. of the Revised Code, the maturity of 994
the bonds may be for any period authorized in the ordinance or 995
resolution not exceeding twenty years, which period shall be the 996
maximum maturity of the bonds for purposes of section 133.22 of 997
the Revised Code. 998

Bonds and notes issued under this section shall not be 999
considered in calculating the net indebtedness of the political 1000
subdivision under sections 133.04, 133.05, 133.06, and 133.07 of 1001
the Revised Code. Sections 9.98 to 9.983 of the Revised Code are 1002
hereby made applicable to bonds or notes authorized under this 1003
section. 1004

(10) A joint self-insurance program is not an insurance 1005
company. Its operation does not constitute doing an insurance 1006
business and is not subject to the insurance laws of this state. 1007

(D) A political subdivision may procure group life insurance 1008
for its employees in conjunction with an individual or joint 1009
self-insurance program authorized by this section, provided that 1010
the policy of group life insurance is not self-insured. 1011

(E) Divisions (C)(1), (2), and (4) of this section do not 1012
apply to individual self-insurance programs in municipal 1013
corporations, townships, or counties. 1014

(F) A public official or employee of a political subdivision 1015
who is or becomes a member of the governing body of the program 1016
administrator of a joint self-insurance program in which the 1017
political subdivision participates is not in violation of division 1018
(D) or (E) of section 102.03, division (C) of section 102.04, or 1019
section 2921.42 of the Revised Code as a result of either of the 1020
following: 1021

(1) The political subdivision's entering under this section 1022
into the written agreement to participate in the joint 1023
self-insurance program; 1024

(2) The political subdivision's entering under this section 1025
into any other contract with the joint self-insurance program. 1026

Sec. 9.90. (A) The governing board of any public institution 1027
of higher education, including without limitation state 1028
universities and colleges, community college districts, university 1029
branch districts, technical college districts, and municipal 1030
universities, ~~or the board of education of any school district,~~ 1031
may, in addition to all other powers provided in the Revised Code: 1032

(1) Contract for, purchase, or otherwise procure from an 1033
insurer or insurers licensed to do business by the state of Ohio 1034
for or on behalf of such of its employees as it may determine, 1035
life insurance, or sickness, accident, annuity, endowment, health, 1036
medical, hospital, dental, or surgical coverage and benefits, or 1037
any combination thereof, by means of insurance plans or other 1038
types of coverage, family, group or otherwise, and may pay from 1039
funds under its control and available for such purpose all or any 1040
portion of the cost, premium, or charge for such insurance, 1041
coverage, or benefits. However, the governing board, in addition 1042
to or as an alternative to the authority otherwise granted by 1043
division (A)(1) of this section, may elect to procure coverage for 1044
health care services, for or on behalf of such of its employees as 1045
it may determine, by means of policies, contracts, certificates, 1046
or agreements issued by at least two health insuring corporations 1047
holding a certificate of authority under Chapter 1751. of the 1048
Revised Code and may pay from funds under the governing board's 1049
control and available for such purpose all or any portion of the 1050
cost of such coverage. 1051

(2) Make payments to a custodial account for investment in 1052

regulated investment company stock for the purpose of providing 1053
retirement benefits as described in section 403(b)(7) of the 1054
Internal Revenue Code of 1954, as amended. Such stock shall be 1055
purchased only from persons authorized to sell such stock in this 1056
state. 1057

Any income of an employee deferred under divisions (A)(1) and 1058
(2) of this section in a deferred compensation program eligible 1059
for favorable tax treatment under the Internal Revenue Code of 1060
1954, as amended, shall continue to be included as regular 1061
compensation for the purpose of computing the contributions to and 1062
benefits from the retirement system of such employee. Any sum so 1063
deferred shall not be included in the computation of any federal 1064
and state income taxes withheld on behalf of any such employee. 1065

(B) All or any portion of the cost, premium, or charge 1066
therefor may be paid in such other manner or combination of 1067
manners as the governing board ~~or the school board~~ may determine, 1068
including direct payment by the employee in cases under division 1069
(A)(1) of this section, and, if authorized in writing by the 1070
employee in cases under division (A)(1) or (2) of this section, by 1071
such governing board ~~or school board~~ with moneys made available by 1072
deduction from or reduction in salary or wages or by the foregoing 1073
of a salary or wage increase. Division (B)(7) of section 3917.01 1074
and the last paragraph of section 3917.06 of the Revised Code 1075
shall not prohibit the issuance or purchase of group life 1076
insurance authorized by this section by reason of payment of 1077
premiums therefor by the governing board ~~or the school board~~ from 1078
its funds, and such group life insurance may be so issued and 1079
purchased if otherwise consistent with the provisions of sections 1080
3917.01 to 3917.07 of the Revised Code. 1081

(C) The board of education of any school district may 1082
exercise any of the powers granted to the governing boards of 1083
public institutions of higher education under divisions (A) and 1084

(B) of this section, except in relation to the provision of life and health care benefits to employees. All life and health care benefits provided to persons employed by the public schools of this state shall be from life and medical plans designed by the school employees health care board pursuant to section 9.901 of the Revised Code. 1085
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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. 1091
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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: 1103
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(1) Three members appointed by the governor; 1108

(2) Three members appointed by the president of the senate; 1109

(3) Three members appointed by the speaker of the house of representatives. 1110
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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, 1112
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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 under this section shall be made within forty-five days after the effective date of this section.

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

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

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

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

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(2) A majority of the board constitutes a quorum for the

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transaction of business at a board meeting. A majority vote of the 1146
members present is necessary for official action. 1147

(E) The school employees health care board shall conduct its 1148
business at open meetings; however, the records of the board are 1149
not public records for purposes of section 149.43 of the Revised 1150
Code. 1151

(F) The school employees health care fund is hereby created 1152
in the state treasury. The public schools shall pay all school 1153
employees health care board plan premiums in the manner prescribed 1154
by the school employees health care board to the board for deposit 1155
into the school employees health care fund. All funds in the 1156
school employees health care fund shall be used solely for the 1157
provision of life and health care benefits to public schools 1158
employees pursuant to this section and related administrative 1159
costs. 1160

(G) The school employees health care board shall do all of 1161
the following: 1162

(1) Design multiple life and medical plans to provide, in the 1163
board's judgment, the optimal combination of coverage, cost, 1164
choice, and stability; 1165

(2) Include both state and regional preferred provider plans 1166
in the medical plans designed by the board; 1167

(3) Set an aggregate goal for employee and employer portions 1168
of premiums for the board's life and medical plans so as to manage 1169
plan participation and encourage the use of value-based plan 1170
participation by employees; 1171

(4) Set employee plan copayments, deductibles, exclusions, 1172
limitations, formularies, and other responsibilities; 1173

(5) Create and distribute to the governor, the speaker of the 1174
house of representatives, and the president of the senate, an 1175

annual report covering the plan background; plan coverage options; 1176
plan administration, including procedures for monitoring and 1177
managing objectives, scope, and methodology; plan operations; 1178
employee and employer contribution rates and the relationship 1179
between the rates and the school employees health care fund 1180
balance; a means to develop and maintain identity and evaluate 1181
alternative employee and employer cost-sharing strategies; an 1182
evaluation of the effectiveness of cost-saving services and 1183
programs; an evaluation of efforts to control and manage member 1184
eligibility and to insure that proper employee and employer 1185
contributions are remitted to the trust fund; efforts to prevent 1186
and detect fraud; and efforts to manage and monitor board 1187
contracts; 1188

(6) Utilize cost containment measures aligned with patient, 1189
plan, and provider management strategies in developing and 1190
managing life and medical plans. 1191

(H) The sections in Chapter 3923. of the Revised Code 1192
regulating public employee benefit plans are not applicable to the 1193
medical plans designed pursuant to this section. 1194

(I)(1) Public schools are not subject to this section prior 1195
to the release of life and medical plans designed pursuant to this 1196
section. The school employees health care board shall release its 1197
initial life and medical plans not later than March 15, 2006. 1198

(2) Districts offering employee health care benefits through 1199
a plan offered by a consortium of two or more districts, or a 1200
consortium of one or more districts and one or more political 1201
subdivisions as defined in section 9.833 of the Revised Code, 1202
representing five thousand or more employees as of January 1, 1203
2005, may request permission from the school employees health care 1204
board to continue offering consortium plans to the districts' 1205
employees at the discretion of the board. If the board grants 1206

permission, the permission is valid for only one year but may be 1207
renewed annually thereafter upon application to an approval of the 1208
board. The board shall grant initial or continued approval upon 1209
finding, based on an actuarial evaluation of the existing 1210
consortium plan offerings, that benefit design, premium costs, 1211
administrative cost, and other factors considered by the board are 1212
equivalent to or lower than comparable costs of the board's plan 1213
options offered to the local district. Age and gender adjustments, 1214
benefit comparison adjustments, and the total cost of the 1215
consortium plan, including administration, benefit cost, stop-loss 1216
insurance, and all other expenses or information requested by the 1217
board shall be presented to the board prior to the board's 1218
decision to allow a local district to continue to offer health 1219
care benefits under a consortium plan. A district shall not 1220
participate in the consortium plan once the district has chosen to 1221
offer plans designed by the board to the district's employees and 1222
begins premium payments for deposit into the school employees 1223
health care fund. 1224

(J) The school employees health care board may contract with 1225
other state agencies as the board deems necessary for the 1226
implementation and operation of this section, based on 1227
demonstrated experience and expertise in administration, 1228
management, data handling, actuarial studies, quality assurance, 1229
or other needed services. The school employees health care board 1230
shall contract with the department of administrative services for 1231
central services until the board is able to obtain such services 1232
from other sources. The board shall reimburse the department of 1233
administrative services for the reasonable cost of those services. 1234
The board's administrative functions shall include, but are not 1235
limited to, the following: 1236

(1) Maintaining reserves in the school employees health care 1237
fund, reinsurance, and other measures that in the judgment of the 1238

board will result in the long-term stability and solvency of the 1239
life and medical plans designed by the board; 1240

(2) Providing health care information, wellness programs, and 1241
other preventive health care measures to medical plan 1242
beneficiaries, to the extent that the board determines to be 1243
appropriate; 1244

(3) Coordinating contracts for services related to the 1245
board's life and medical plans. Contracts shall be approved by the 1246
school employees health care board. 1247

(K) Not less than ninety days before coverage begins for 1248
public school employees under life and medical plans designed by 1249
the school employees health care board, a school district's board 1250
of education shall provide detailed information about the life and 1251
medical plans to the employees. 1252

(L) The Ohio board of regents shall report to the governor, 1253
the speaker of the house of representatives, and the president of 1254
the senate within eighteen months after the effective date of this 1255
section on the feasibility of achieving all of the following: 1256

(1) Designing multiple life and medical plans to cover 1257
persons employed by public institutions of higher education that 1258
achieve an optimal combination of coverage, cost, choice, and 1259
stability, which plans include both state and regional preferred 1260
provider plans, set employee and employer premiums, and set 1261
employee plan copayments, deductibles, exclusions, limitations, 1262
formularies, and other responsibilities. For this purpose, "public 1263
institutions of higher education" include, without limitation, 1264
state universities and colleges, state community college 1265
districts, community college districts, university branch 1266
districts, technical college districts, and municipal 1267
universities. 1268

(2) Maintaining reserves, reinsurance, and other measures to 1269

<u>insure the long-term stability and solvency of the life and</u>	1270
<u>medical plans;</u>	1271
<u>(3) Providing appropriate health care information, wellness</u>	1272
<u>programs, and other preventive health care measures to medical</u>	1273
<u>plan beneficiaries;</u>	1274
<u>(4) Coordinating contracts for services related to the life</u>	1275
<u>and medical plans.</u>	1276
Sec. 101.68. (A) <u>Within</u> <u>Subject to division (D) of this</u>	1277
<u>section, within</u> thirty days of the convening of the first regular	1278
session of the general assembly, each agency required to submit	1279
reports or similar documents to the general assembly pursuant to	1280
section 103.43, 3301.07, 5139.33, 5501.07, 5537.17, or 5593.21 of	1281
the Revised Code shall send written notice to each member of the	1282
general assembly in order to determine whether the member desires	1283
to personally receive the reports or similar documents as they are	1284
made available by the agency. If the member desires to personally	1285
receive the reports or similar documents as they become available,	1286
the member shall send a written request to the agency within	1287
thirty days of receiving the notice.	1288
(B) Whenever any statute or rule requires that a report,	1289
recommendation, or other similar document be submitted to the	1290
general assembly under a law not cited in division (A) of this	1291
section, to the members of the general assembly, to one house of	1292
the general assembly, or to the members of one house of the	1293
general assembly, the requirement shall be fulfilled by the	1294
submission of a copy of the report, recommendation, or document to	1295
the director of the legislative service commission, the president	1296
of the senate, the minority leader of the senate, the speaker of	1297
the house of representatives, and the minority leader of the house	1298
of representatives if both houses of the general assembly or their	1299
members are specified, or to the director of the legislative	1300

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 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: 1332

(A) "Compensation" means money, thing of value, or financial 1333
benefit. "Compensation" does not include reimbursement for actual 1334
and necessary expenses incurred in the performance of official 1335
duties. 1336

(B) "Public official or employee" means any person who is 1337
elected or appointed to an office or is an employee of any public 1338
agency. "Public official or employee" does not include a person 1339
elected or appointed to the office of precinct, ward, or district 1340
committee member under section 3517.03 of the Revised Code, any 1341
presidential elector, or any delegate to a national convention. 1342
"Public official or employee" does not include a person who is a 1343
teacher, instructor, professor, or other kind of educator whose 1344
position does not involve the performance of, or authority to 1345
perform, administrative or supervisory functions. 1346

(C) "Public agency" means the general assembly, all courts, 1347
any department, division, institution, board, commission, 1348
authority, bureau, or other instrumentality of the state, or a 1349
county, city, village, or township, the five state retirement 1350
systems, or any other governmental entity. "Public agency" does 1351
not include a department, division, institution, board, 1352
commission, authority, or other instrumentality of the state or a 1353
county, municipal corporation, township, or other governmental 1354
entity that functions exclusively for cultural, educational, 1355
historical, humanitarian, advisory, or research purposes; that 1356
does not expend more than ten thousand dollars per calendar year, 1357
excluding salaries and wages of employees; and whose members are 1358
uncompensated. 1359

(D) "Immediate family" means a spouse residing in the 1360
person's household and any dependent child. 1361

(E) "Income" includes gross income as defined and used in the 1362
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 1363
amended, interest and dividends on obligations or securities of 1364
any state or of any political subdivision or authority of any 1365
state or political subdivision, and interest or dividends on 1366
obligations of any authority, commission, or instrumentality of 1367
the United States. 1368

(F) Except as otherwise provided in division (A) of section 1369
102.08 of the Revised Code, "appropriate ethics commission" means: 1370

(1) For matters relating to members of the general assembly, 1371
employees of the general assembly, employees of the legislative 1372
service commission, employees of the capitol square review and 1373
advisory board, and candidates for the office of member of the 1374
general assembly, the joint legislative ethics committee; 1375

(2) For matters relating to judicial officers and employees, 1376
and candidates for judicial office, the board of commissioners on 1377
grievances and discipline of the supreme court; 1378

(3) For matters relating to all other persons, the Ohio 1379
ethics commission. 1380

(G) "Anything of value" has the same meaning as provided in 1381
section 1.03 of the Revised Code and includes, but is not limited 1382
to, a contribution as defined in section 3517.01 of the Revised 1383
Code. 1384

(H) "Honorarium" means any payment made in consideration for 1385
any speech given, article published, or attendance at any public 1386
or private conference, convention, meeting, social event, meal, or 1387
similar gathering. "Honorarium" does not include ceremonial gifts 1388
or awards that have insignificant monetary value; unsolicited 1389
gifts of nominal value or trivial items of informational value; or 1390
earned income from any person, other than a legislative agent, for 1391
personal services that are customarily provided in connection with 1392

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.

(I) "Employer" means any person who, directly or indirectly,
engages an executive agency lobbyist or legislative agent.

(J) "Executive agency decision," "executive agency lobbyist,"
and "executive agency lobbying activity" have the same meanings as
in section 121.60 of the Revised Code.

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

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

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

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

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

(3) Five members appointed by the governor, with the advice
and consent of the senate, not more than three of whom shall be
members of the same political party, one of whom shall represent
the office of the state architect and engineer, one of whom shall

represent the Ohio arts council, one of whom shall represent the 1423
Ohio historical society, one of whom shall represent the Ohio 1424
building authority, and one of whom shall represent the public at 1425
large; 1426

(4) One member, who shall be a former president of the 1427
senate, appointed by the current president of the senate. If the 1428
current president of the senate, in the current president's 1429
discretion, decides for any reason not to make the appointment or 1430
if no person is eligible or available to serve, the seat shall 1431
remain vacant. 1432

(5) One member, who shall be a former speaker of the house of 1433
representatives, appointed by the current speaker of the house of 1434
representatives. If the current speaker of the house of 1435
representatives, in the current speaker's discretion, decides for 1436
any reason not to make the appointment or if no person is eligible 1437
or available to serve, the seat shall remain vacant. 1438

(6) The clerk of the senate and the clerk of the house of 1439
representatives. 1440

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

appointed member shall continue in office subsequent to the 1454
expiration date of the member's term until the member's successor 1455
takes office, or until a period of sixty days has elapsed, 1456
whichever occurs first. 1457

(C) The board shall hold meetings in a manner and at times 1458
prescribed by the rules adopted by the board. A majority of the 1459
board constitutes a quorum, and no action shall be taken by the 1460
board unless approved by at least six members or by at least seven 1461
members if a person is appointed under division (A)(4) or (5) of 1462
this section. At its first meeting, the board shall adopt rules 1463
for the conduct of its business and the election of its officers, 1464
and shall organize by selecting a chairperson and other officers 1465
as it considers necessary. Board members shall serve without 1466
compensation but shall be reimbursed for actual and necessary 1467
expenses incurred in the performance of their duties. 1468

(D) The board may do any of the following: 1469

(1) Employ or hire on a consulting basis professional, 1470
technical, and clerical employees as are necessary for the 1471
performance of its duties; 1472

(2) Hold public hearings at times and places as determined by 1473
the board; 1474

(3) Adopt, amend, or rescind rules necessary to accomplish 1475
the duties of the board as set forth in this section; 1476

(4) Sponsor, conduct, and support such social events as the 1477
board may authorize and consider appropriate for the employees of 1478
the board, employees and members of the general assembly, 1479
employees of persons under contract with the board or otherwise 1480
engaged to perform services on the premises of capitol square, or 1481
other persons as the board may consider appropriate. Subject to 1482
the requirements of Chapter 4303. of the Revised Code, the board 1483
may provide beer, wine, and intoxicating liquor, with or without 1484

charge, for those events and may use funds only from the sale of 1485
goods and services fund to purchase the beer, wine, and 1486
intoxicating liquor the board provides. 1487

(E) The board shall do all of the following: 1488

(1) Have sole authority to coordinate and approve any 1489
improvements, additions, and renovations that are made to the 1490
capitol square. The improvements shall include, but not be limited 1491
to, the placement of monuments and sculpture on the capitol 1492
grounds. 1493

(2) Subject to section 3353.07 of the Revised Code, operate 1494
the capitol square, and have sole authority to regulate all uses 1495
of the capitol square. The uses shall include, but not be limited 1496
to, the casual and recreational use of the capitol square. 1497

(3) Employ, with the approval of the president of the senate 1498
and the speaker of the house of representatives, the executive 1499
director of the board; fix the compensation of and prescribe the 1500
duties of the executive director; and employ, fix the compensation 1501
of, and prescribe the duties of ~~the executive director of the~~ 1502
~~board and~~ other employees the board considers necessary for the 1503
performance of its powers and duties; 1504

(4) Establish and maintain the capitol collection trust. The 1505
capitol collection trust shall consist of furniture, antiques, and 1506
other items of personal property that the board shall store in 1507
suitable facilities until they are ready to be placed in the 1508
capitol square. 1509

(5) Perform repair, construction, contracting, purchasing, 1510
maintenance, supervisory, and operating activities the board 1511
determines are necessary for the operation and maintenance of the 1512
capitol square; 1513

(6) Maintain and preserve the capitol square, in accordance 1514

with guidelines issued by the United States secretary of the 1515
interior for application of the secretary's standards for 1516
rehabilitation adopted in 36 C.F.R. part 67. 1517

(F)(1) The board shall lease capital facilities improved or 1518
financed by the Ohio building authority pursuant to Chapter 152. 1519
of the Revised Code for the use of the board, and may enter into 1520
any other agreements with the authority ancillary to improvement, 1521
financing, or leasing of those capital facilities, including, but 1522
not limited to, any agreement required by the applicable bond 1523
proceedings authorized by Chapter 152. of the Revised Code. Any 1524
lease of capital facilities authorized by this section shall be 1525
governed by division (D) of section 152.24 of the Revised Code. 1526

(2) Fees, receipts, and revenues received by the board from 1527
the state underground parking garage constitute available receipts 1528
as defined in section 152.09 of the Revised Code, and may be 1529
pledged to the payment of bond service charges on obligations 1530
issued by the Ohio building authority pursuant to Chapter 152. of 1531
the Revised Code to improve or finance capital facilities useful 1532
to the board. The authority may, with the consent of the board, 1533
provide in the bond proceedings for a pledge of all or a portion 1534
of those fees, receipts, and revenues as the authority determines. 1535
The authority may provide in the bond proceedings or by separate 1536
agreement with the board for the transfer of those fees, receipts, 1537
and revenues to the appropriate bond service fund or bond service 1538
reserve fund as required to pay the bond service charges when due, 1539
and any such provision for the transfer of those fees, receipts, 1540
and revenues shall be controlling notwithstanding any other 1541
provision of law pertaining to those fees, receipts, and revenues. 1542

(3) All moneys received by the treasurer of state on account 1543
of the board and required by the applicable bond proceedings or by 1544
separate agreement with the board to be deposited, transferred, or 1545
credited to the bond service fund or bond service reserve fund 1546

established by the bond proceedings shall be transferred by the treasurer of state to such fund, whether or not it is in the custody of the treasurer of state, without necessity for further appropriation, upon receipt of notice from the Ohio building authority as prescribed in the bond proceedings.

(G) All fees, receipts, and revenues received by the board from the state underground parking garage shall be deposited into the state treasury to the credit of the underground parking garage operating fund, which is hereby created, to be used for the purposes specified in division (F) of this section and for the operation and maintenance of the garage. All investment earnings of the fund shall be credited to the fund.

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

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

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

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

(I) Except as provided in divisions (G), (H), and (J) of this section, all fees, receipts, and revenues received by the board shall be deposited into the state treasury to the credit of the

sale of goods and services fund, which is hereby created. Money 1578
credited to the fund shall be used solely to pay costs of the 1579
board other than those specified in divisions (F) and (G) of this 1580
section. All investment earnings of the fund shall be credited to 1581
the fund. 1582

(J) There is hereby created in the state treasury the capitol 1583
square improvement fund, to be used by the board to pay 1584
construction, renovation, and other costs related to the capitol 1585
square for which money is not otherwise available to the board. 1586
Whenever the board determines that there is a need to incur those 1587
costs and that the unencumbered, unobligated balance to the credit 1588
of the underground parking garage operating fund exceeds the 1589
amount needed for the purposes specified in division (F) of this 1590
section and for the operation and maintenance of the garage, the 1591
board may request the director of budget and management to 1592
transfer from the underground parking garage operating fund to the 1593
capitol square improvement fund the amount needed to pay such 1594
construction, renovation, or other costs. The director then shall 1595
transfer the amount needed from the excess balance of the 1596
underground parking garage operating fund. 1597

(K) As the operation and maintenance of the capitol square 1598
constitute essential government functions of a public purpose, the 1599
board shall not be required to pay taxes or assessments upon the 1600
square, upon any property acquired or used by the board under this 1601
section, or upon any income generated by the operation of the 1602
square. 1603

(L) As used in this section, "capitol square" means the 1604
capitol building, senate building, capitol atrium, capitol 1605
grounds, and the state underground parking garage. 1606

(M) The capitol annex shall be known as the senate building. 1607

Sec. 108.05. (A) The lieutenant governor shall be a member of 1608
the governor's cabinet and shall preside at its meetings in the 1609
absence of the governor. 1610

(B) The governor may appoint the lieutenant governor as an 1611
administrative department head listed in section 121.03 of the 1612
Revised Code, ~~as director of the office of criminal justice~~ 1613
~~services pursuant to section 181.52 of the Revised Code,~~ as the 1614
governor's representative on any board, agency, committee, or 1615
commission of which the governor is a member and has the authority 1616
to appoint a representative, or in an advisory capacity to any 1617
nonelective board, agency, committee, or commission in the 1618
executive department or may give the lieutenant governor any 1619
special assignment as the governor considers in the interest of 1620
the state. 1621

(C) When carrying out any of the functions described in 1622
division (B) of this section, the lieutenant governor shall be 1623
reimbursed from funds of the particular authority for necessary 1624
expenses incurred in the conduct of authority business. 1625

Sec. 109.57. (A)(1) The superintendent of the bureau of 1626
criminal identification and investigation shall procure from 1627
wherever procurable and file for record photographs, pictures, 1628
descriptions, fingerprints, measurements, and other information 1629
that may be pertinent of all persons who have been convicted of 1630
committing within this state a felony, any crime constituting a 1631
misdemeanor on the first offense and a felony on subsequent 1632
offenses, or any misdemeanor described in division (A)(1)(a) of 1633
section 109.572 of the Revised Code, of all children under 1634
eighteen years of age who have been adjudicated delinquent 1635
children for committing within this state an act that would be a 1636
felony or an offense of violence if committed by an adult or who 1637
have been convicted of or pleaded guilty to committing within this 1638

state a felony or an offense of violence, and of all well-known 1639
and habitual criminals. The person in charge of any county, 1640
multicounty, municipal, municipal-county, or multicounty-municipal 1641
jail or workhouse, community-based correctional facility, halfway 1642
house, alternative residential facility, or state correctional 1643
institution and the person in charge of any state institution 1644
having custody of a person suspected of having committed a felony, 1645
any crime constituting a misdemeanor on the first offense and a 1646
felony on subsequent offenses, or any misdemeanor described in 1647
division (A)(1)(a) of section 109.572 of the Revised Code or 1648
having custody of a child under eighteen years of age with respect 1649
to whom there is probable cause to believe that the child may have 1650
committed an act that would be a felony or an offense of violence 1651
if committed by an adult shall furnish such material to the 1652
superintendent of the bureau. Fingerprints, photographs, or other 1653
descriptive information of a child who is under eighteen years of 1654
age, has not been arrested or otherwise taken into custody for 1655
committing an act that would be a felony or an offense of violence 1656
if committed by an adult, has not been adjudicated a delinquent 1657
child for committing an act that would be a felony or an offense 1658
of violence if committed by an adult, has not been convicted of or 1659
pleaded guilty to committing a felony or an offense of violence, 1660
and is not a child with respect to whom there is probable cause to 1661
believe that the child may have committed an act that would be a 1662
felony or an offense of violence if committed by an adult shall 1663
not be procured by the superintendent or furnished by any person 1664
in charge of any county, multicounty, municipal, municipal-county, 1665
or multicounty-municipal jail or workhouse, community-based 1666
correctional facility, halfway house, alternative residential 1667
facility, or state correctional institution, except as authorized 1668
in section 2151.313 of the Revised Code. 1669

(2) Every clerk of a court of record in this state, other 1670
than the supreme court or a court of appeals, shall send to the 1671

superintendent of the bureau a weekly report containing a summary 1672
of each case involving a felony, involving any crime constituting 1673
a misdemeanor on the first offense and a felony on subsequent 1674
offenses, involving a misdemeanor described in division (A)(1)(a) 1675
of section 109.572 of the Revised Code, or involving an 1676
adjudication in a case in which a child under eighteen years of 1677
age was alleged to be a delinquent child for committing an act 1678
that would be a felony or an offense of violence if committed by 1679
an adult. The clerk of the court of common pleas shall include in 1680
the report and summary the clerk sends under this division all 1681
information described in divisions (A)(2)(a) to (f) of this 1682
section regarding a case before the court of appeals that is 1683
served by that clerk. The summary shall be written on the standard 1684
forms furnished by the superintendent pursuant to division (B) of 1685
this section and shall include the following information: 1686

(a) The incident tracking number contained on the standard 1687
forms furnished by the superintendent pursuant to division (B) of 1688
this section; 1689

(b) The style and number of the case; 1690

(c) The date of arrest; 1691

(d) The date that the person was convicted of or pleaded 1692
guilty to the offense, adjudicated a delinquent child for 1693
committing the act that would be a felony or an offense of 1694
violence if committed by an adult, found not guilty of the 1695
offense, or found not to be a delinquent child for committing an 1696
act that would be a felony or an offense of violence if committed 1697
by an adult, the date of an entry dismissing the charge, an entry 1698
declaring a mistrial of the offense in which the person is 1699
discharged, an entry finding that the person or child is not 1700
competent to stand trial, or an entry of a nolle prosequi, or the 1701
date of any other determination that constitutes final resolution 1702

of the case; 1703

(e) A statement of the original charge with the section of 1704
the Revised Code that was alleged to be violated; 1705

(f) If the person or child was convicted, pleaded guilty, or 1706
was adjudicated a delinquent child, the sentence or terms of 1707
probation imposed or any other disposition of the offender or the 1708
delinquent child. 1709

If the offense involved the disarming of a law enforcement 1710
officer or an attempt to disarm a law enforcement officer, the 1711
clerk shall clearly state that fact in the summary, and the 1712
superintendent shall ensure that a clear statement of that fact is 1713
placed in the bureau's records. 1714

(3) The superintendent shall cooperate with and assist 1715
sheriffs, chiefs of police, and other law enforcement officers in 1716
the establishment of a complete system of criminal identification 1717
and in obtaining fingerprints and other means of identification of 1718
all persons arrested on a charge of a felony, any crime 1719
constituting a misdemeanor on the first offense and a felony on 1720
subsequent offenses, or a misdemeanor described in division 1721
(A)(1)(a) of section 109.572 of the Revised Code and of all 1722
children under eighteen years of age arrested or otherwise taken 1723
into custody for committing an act that would be a felony or an 1724
offense of violence if committed by an adult. The superintendent 1725
also shall file for record the fingerprint impressions of all 1726
persons confined in a county, multicounty, municipal, 1727
municipal-county, or multicounty-municipal jail or workhouse, 1728
community-based correctional facility, halfway house, alternative 1729
residential facility, or state correctional institution for the 1730
violation of state laws and of all children under eighteen years 1731
of age who are confined in a county, multicounty, municipal, 1732
municipal-county, or multicounty-municipal jail or workhouse, 1733

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. 1766

(C) The superintendent may operate a center for electronic, 1767
automated, or other data processing for the storage and retrieval 1768
of information, data, and statistics pertaining to criminals and 1769
to children under eighteen years of age who are adjudicated 1770
delinquent children for committing an act that would be a felony 1771
or an offense of violence if committed by an adult, criminal 1772
activity, crime prevention, law enforcement, and criminal justice, 1773
and may establish and operate a statewide communications network 1774
to gather and disseminate information, data, and statistics for 1775
the use of law enforcement agencies. The superintendent may 1776
gather, store, retrieve, and disseminate information, data, and 1777
statistics that pertain to children who are under eighteen years 1778
of age and that are gathered pursuant to sections 109.57 to 109.61 1779
of the Revised Code together with information, data, and 1780
statistics that pertain to adults and that are gathered pursuant 1781
to those sections. In addition to any other authorized use of 1782
information, data, and statistics of that nature, the 1783
superintendent or the superintendent's designee may provide and 1784
exchange the information, data, and statistics pursuant to the 1785
national crime prevention and privacy compact as described in 1786
division (A)(5) of this section. 1787

(D) The information and materials furnished to the 1788
superintendent pursuant to division (A) of this section and 1789
information and materials furnished to any board or person under 1790
division (F) or (G) of this section are not public records under 1791
section 149.43 of the Revised Code. 1792

(E) The attorney general shall adopt rules, in accordance 1793
with Chapter 119. of the Revised Code, setting forth the procedure 1794
by which a person may receive or release information gathered by 1795
the superintendent pursuant to division (A) of this section. A 1796
reasonable fee may be charged for this service. If a temporary 1797

employment service submits a request for a determination of 1798
whether a person the service plans to refer to an employment 1799
position has been convicted of or pleaded guilty to an offense 1800
listed in division (A)(1), (3), (4), (5), or (6) of section 1801
109.572 of the Revised Code, the request shall be treated as a 1802
single request and only one fee shall be charged. 1803

(F)(1) As used in division (F)(2) of this section, "head 1804
start agency" means an entity in this state that has been approved 1805
to be an agency for purposes of subchapter II of the "Community 1806
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 1807
as amended. 1808

(2)(a) In addition to or in conjunction with any request that 1809
is required to be made under section 109.572, 2151.86, 3301.32, 1810
3301.541, 3319.39, 3701.881, 5104.012, 5104.013, 5123.081, 1811
5126.28, 5126.281, or 5153.111 or division (F) of section 3310.11 1812
of the Revised Code, the board of education of any school 1813
district; the director of mental retardation and developmental 1814
disabilities; any county board of mental retardation and 1815
developmental disabilities; any entity under contract with a 1816
county board of mental retardation and developmental disabilities; 1817
the chief administrator of any chartered nonpublic school; the 1818
chief administrator of any registered private school; the chief 1819
administrator of any home health agency; the chief administrator 1820
of or person operating any child day-care center, type A family 1821
day-care home, or type B family day-care home licensed or 1822
certified under Chapter 5104. of the Revised Code; the 1823
administrator of any type C family day-care home certified 1824
pursuant to Section 1 of Sub. H.B. 62 of the 121st general 1825
assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general 1826
assembly; the chief administrator of any head start agency; or the 1827
executive director of a public children services agency may 1828
request that the superintendent of the bureau investigate and 1829

determine, with respect to any individual who has applied for 1830
employment in any position after October 2, 1989, or any 1831
individual wishing to apply for employment with a board of 1832
education may request, with regard to the individual, whether the 1833
bureau has any information gathered under division (A) of this 1834
section that pertains to that individual. On receipt of the 1835
request, the superintendent shall determine whether that 1836
information exists and, upon request of the person, board, or 1837
entity requesting information, also shall request from the federal 1838
bureau of investigation any criminal records it has pertaining to 1839
that individual. The superintendent or the superintendent's 1840
designee also may request criminal history records from other 1841
states or the federal government pursuant to the national crime 1842
prevention and privacy compact set forth in section 109.571 of the 1843
Revised Code. Within thirty days of the date that the 1844
superintendent receives a request, the superintendent shall send 1845
to the board, entity, or person a report of any information that 1846
the superintendent determines exists, including information 1847
contained in records that have been sealed under section 2953.32 1848
of the Revised Code, and, within thirty days of its receipt, shall 1849
send the board, entity, or person a report of any information 1850
received from the federal bureau of investigation, other than 1851
information the dissemination of which is prohibited by federal 1852
law. 1853

(b) When a board of education or a registered private school 1854
is required to receive information under this section as a 1855
prerequisite to employment of an individual pursuant to section 1856
3319.39 or division (F) of section 3310.11 of the Revised Code, it 1857
may accept a certified copy of records that were issued by the 1858
bureau of criminal identification and investigation and that are 1859
presented by an individual applying for employment with the 1860
district in lieu of requesting that information itself. In such a 1861
case, the board or school shall accept the certified copy issued 1862

by the bureau in order to make a photocopy of it for that 1863
individual's employment application documents and shall return the 1864
certified copy to the individual. In a case of that nature, a 1865
district or school only shall accept a certified copy of records 1866
of that nature within one year after the date of their issuance by 1867
the bureau. 1868

(3) The state board of education may request, with respect to 1869
any individual who has applied for employment after October 2, 1870
1989, in any position with the state board or the department of 1871
education, any information that a school district board of 1872
education is authorized to request under division (F)(2) of this 1873
section, and the superintendent of the bureau shall proceed as if 1874
the request has been received from a school district board of 1875
education under division (F)(2) of this section. 1876

(4) When the superintendent of the bureau receives a request 1877
for information under section 3319.291 of the Revised Code, the 1878
superintendent shall proceed as if the request has been received 1879
from a school district board of education under division (F)(2) of 1880
this section. 1881

(5) When a recipient of ~~an OhioReads~~ a classroom ~~or community~~ 1882
reading improvement grant paid under section 3301.86 ~~or 3301.87~~ of 1883
the Revised Code ~~or an entity approved by the OhioReads council~~ 1884
requests, with respect to any individual who applies to 1885
participate in providing any program or service ~~through an entity~~ 1886
~~approved by the OhioReads council or~~ funded in whole or in part by 1887
the grant, the information that a school district board of 1888
education is authorized to request under division (F)(2)(a) of 1889
this section, the superintendent of the bureau shall proceed as if 1890
the request has been received from a school district board of 1891
education under division (F)(2)(a) of this section. 1892

(G) In addition to or in conjunction with any request that is 1893
required to be made under section 173.41, 3701.881, 3712.09, 1894

3721.121, or 3722.151 of the Revised Code with respect to an
individual who has applied for employment in a position that
involves providing direct care to an older adult, the chief
administrator of a PASSPORT agency that provides services through
the PASSPORT program created under section 173.40 of the Revised
Code, home health agency, hospice care program, home licensed
under Chapter 3721. of the Revised Code, adult day-care program
operated pursuant to rules adopted under section 3721.04 of the
Revised Code, or adult care facility may request that the
superintendent of the bureau investigate and determine, with
respect to any individual who has applied after January 27, 1997,
for employment in a position that does not involve providing
direct care to an older adult, whether the bureau has any
information gathered under division (A) of this section that
pertains to that individual. On receipt of the request, the
superintendent shall determine whether that information exists
and, on request of the administrator requesting information, shall
also request from the federal bureau of investigation any criminal
records it has pertaining to that individual. 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 1926

person under this section is confidential and shall not be 1927
released or disseminated. 1928

(I) The superintendent may charge a reasonable fee for 1929
providing information or criminal records under division (F)(2) or 1930
(G) of this section. 1931

(J) As used in this section, "registered private school" 1932
means a nonpublic school registered with the superintendent of 1933
public instruction under section 3310.11 of the Revised Code to 1934
participate in the educational choice scholarship program. 1935

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 1936
section 121.08, 2151.86, 3301.32, 3301.541, 3319.39, 5104.012, 1937
5104.013, or 5153.111 of the Revised Code, a completed form 1938
prescribed pursuant to division (C)(1) of this section, and a set 1939
of fingerprint impressions obtained in the manner described in 1940
division (C)(2) of this section, the superintendent of the bureau 1941
of criminal identification and investigation shall conduct a 1942
criminal records check in the manner described in division (B) of 1943
this section to determine whether any information exists that 1944
indicates that the person who is the subject of the request 1945
previously has been convicted of or pleaded guilty to any of the 1946
following: 1947

(a) A violation of section 2903.01, 2903.02, 2903.03, 1948
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1949
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1950
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1951
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 1952
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 1953
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 1954
2925.06, or 3716.11 of the Revised Code, felonious sexual 1955
penetration in violation of former section 2907.12 of the Revised 1956
Code, a violation of section 2905.04 of the Revised Code as it 1957

existed prior to July 1, 1996, a violation of section 2919.23 of
the Revised Code that would have been a violation of section
2905.04 of the Revised Code as it existed prior to July 1, 1996,
had the violation been committed prior to that date, or a
violation of section 2925.11 of the Revised Code that is not a
minor drug possession offense;

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

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

(a) A violation of section 2903.01, 2903.02, 2903.03,
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,
2903.341, 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, 1990
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 1991
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 1992
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 1993
2925.03, or 3716.11 of the Revised Code; 1994

(b) An existing or former municipal ordinance or law of this 1995
state, any other state, or the United States that is substantially 1996
equivalent to any of the offenses listed in division (A)(2)(a) of 1997
this section. 1998

(3) On receipt of a request pursuant to section 173.41, 1999
3712.09, 3721.121, or 3722.151 of the Revised Code, a completed 2000
form prescribed pursuant to division (C)(1) of this section, and a 2001
set of fingerprint impressions obtained in the manner described in 2002
division (C)(2) of this section, the superintendent of the bureau 2003
of criminal identification and investigation shall conduct a 2004
criminal records check with respect to any person who has applied 2005
for employment in a position that involves providing direct care 2006
to an older adult. The superintendent shall conduct the criminal 2007
records check in the manner described in division (B) of this 2008
section to determine whether any information exists that indicates 2009
that the person who is the subject of the request previously has 2010
been convicted of or pleaded guilty to any of the following: 2011

(a) A violation of section 2903.01, 2903.02, 2903.03, 2012
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2013
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2014
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2015
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2016
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2017
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2018
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2019
2925.22, 2925.23, or 3716.11 of the Revised Code; 2020

(b) An existing or former law of this state, any other state, 2021
or the United States that is substantially equivalent to any of 2022
the offenses listed in division (A)(3)(a) of this section. 2023

(4) On receipt of a request pursuant to section 3701.881 of 2024
the Revised Code with respect to an applicant for employment with 2025
a home health agency as a person responsible for the care, 2026
custody, or control of a child, a completed form prescribed 2027
pursuant to division (C)(1) of this section, and a set of 2028
fingerprint impressions obtained in the manner described in 2029
division (C)(2) of this section, the superintendent of the bureau 2030
of criminal identification and investigation shall conduct a 2031
criminal records check. The superintendent shall conduct the 2032
criminal records check in the manner described in division (B) of 2033
this section to determine whether any information exists that 2034
indicates that the person who is the subject of the request 2035
previously has been convicted of or pleaded guilty to any of the 2036
following: 2037

(a) A violation of section 2903.01, 2903.02, 2903.03, 2038
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2039
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2040
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2041
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2042
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2043
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2044
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 2045
violation of section 2925.11 of the Revised Code that is not a 2046
minor drug possession offense; 2047

(b) An existing or former law of this state, any other state, 2048
or the United States that is substantially equivalent to any of 2049
the offenses listed in division (A)(4)(a) of this section. 2050

(5) On receipt of a request pursuant to section 5111.95 or 2051

5111.96 of the Revised Code with respect to an applicant for 2052
employment with a waiver agency participating in a department of 2053
job and family services administered home and community-based 2054
waiver program or an independent provider participating in a 2055
department administered home and community-based waiver program in 2056
a position that involves providing home and community-based waiver 2057
services to consumers with disabilities, a completed form 2058
prescribed pursuant to division (C)(1) of this section, and a set 2059
of fingerprint impressions obtained in the manner described in 2060
division (C)(2) of this section, the superintendent of the bureau 2061
of criminal identification and investigation shall conduct a 2062
criminal records check. The superintendent shall conduct the 2063
criminal records check in the manner described in division (B) of 2064
this section to determine whether any information exists that 2065
indicates that the person who is the subject of the request 2066
previously has been convicted of or pleaded guilty to any of the 2067
following: 2068

(a) A violation of section 2903.01, 2903.02, 2903.03, 2069
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2070
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2071
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2072
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2073
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2074
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2075
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 2076
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2077
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 2078
Revised Code, felonious sexual penetration in violation of former 2079
section 2907.12 of the Revised Code, a violation of section 2080
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 2081
violation of section 2919.23 of the Revised Code that would have 2082
been a violation of section 2905.04 of the Revised Code as it 2083

existed prior to July 1, 1996, had the violation been committed 2084
prior to that date; 2085

(b) An existing or former law of this state, any other state, 2086
or the United States that is substantially equivalent to any of 2087
the offenses listed in division (A)(5)(a) of this section. 2088

(6) On receipt of a request pursuant to section 3701.881 of 2089
the Revised Code with respect to an applicant for employment with 2090
a home health agency in a position that involves providing direct 2091
care to an older adult, a completed form prescribed pursuant to 2092
division (C)(1) of this section, and a set of fingerprint 2093
impressions obtained in the manner described in division (C)(2) of 2094
this section, the superintendent of the bureau of criminal 2095
identification and investigation shall conduct a criminal records 2096
check. The superintendent shall conduct the criminal records check 2097
in the manner described in division (B) of this section to 2098
determine whether any information exists that indicates that the 2099
person who is the subject of the request previously has been 2100
convicted of or pleaded guilty to any of the following: 2101

(a) A violation of section 2903.01, 2903.02, 2903.03, 2102
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2103
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2104
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2105
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2106
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2107
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2108
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2109
2925.22, 2925.23, or 3716.11 of the Revised Code; 2110

(b) An existing or former law of this state, any other state, 2111
or the United States that is substantially equivalent to any of 2112
the offenses listed in division (A)(6)(a) of this section. 2113

(7) When conducting a criminal records check upon a request 2114

pursuant to section 3319.39 of the Revised Code for an applicant 2115
who is a teacher, in addition to the determination made under 2116
division (A)(1) of this section, the superintendent shall 2117
determine whether any information exists that indicates that the 2118
person who is the subject of the request previously has been 2119
convicted of or pleaded guilty to any offense specified in section 2120
3319.31 of the Revised Code. 2121

(8) On a request pursuant to section 2151.86 of the Revised 2122
Code, a completed form prescribed pursuant to division (C)(1) of 2123
this section, and a set of fingerprint impressions obtained in the 2124
manner described in division (C)(2) of this section, the 2125
superintendent of the bureau of criminal identification and 2126
investigation shall conduct a criminal records check in the manner 2127
described in division (B) of this section to determine whether any 2128
information exists that indicates that the person who is the 2129
subject of the request previously has been convicted of or pleaded 2130
guilty to any of the following: 2131

(a) A violation of section 2903.01, 2903.02, 2903.03, 2132
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2133
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2134
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2135
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2136
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2137
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2138
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a 2139
violation of section 2905.04 of the Revised Code as it existed 2140
prior to July 1, 1996, a violation of section 2919.23 of the 2141
Revised Code that would have been a violation of section 2905.04 2142
of the Revised Code as it existed prior to July 1, 1996, had the 2143
violation been committed prior to that date, a violation of 2144
section 2925.11 of the Revised Code that is not a minor drug 2145
possession offense, or felonious sexual penetration in violation 2146

of former section 2907.12 of the Revised Code; 2147

(b) A violation of an existing or former law of this state, 2148
any other state, or the United States that is substantially 2149
equivalent to any of the offenses listed in division (A)(8)(a) of 2150
this section. 2151

(9) When conducting a criminal records check on a request 2152
pursuant to section 5104.013 of the Revised Code for a person who 2153
is an owner, licensee, or administrator of a child day-care center 2154
or type A family day-care home or an authorized provider of a 2155
certified type B family day-care home, the superintendent, in 2156
addition to the determination made under division (A)(1) of this 2157
section, shall determine whether any information exists that 2158
indicates that the person has been convicted of or pleaded guilty 2159
to any of the following: 2160

(a) A violation of section 2913.02, 2913.03, 2913.04, 2161
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2162
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2163
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2921.11, 2164
2921.13, or 2923.01 of the Revised Code, a violation of section 2165
2923.02 or 2923.03 of the Revised Code that relates to a crime 2166
specified in this division or division (A)(1)(a) of this section, 2167
or a second violation of section 4511.19 of the Revised Code 2168
within five years of the date of application for licensure or 2169
certification. 2170

(b) A violation of an existing or former law of this state, 2171
any other state, or the United States that is substantially 2172
equivalent to any of the offenses or violations described in 2173
division (A)(9)(a) of this section. 2174

(10) Not later than thirty days after the date the 2175
superintendent receives the request, completed form, and 2176
fingerprint impressions, the superintendent shall send the person, 2177

board, or entity that made the request any information, other than 2178
information the dissemination of which is prohibited by federal 2179
law, the superintendent determines exists with respect to the 2180
person who is the subject of the request that indicates that the 2181
person previously has been convicted of or pleaded guilty to any 2182
offense listed or described in division (A)(1), (2), (3), (4), 2183
(5), (6), (7), (8), or (9) of this section, as appropriate. The 2184
superintendent shall send the person, board, or entity that made 2185
the request a copy of the list of offenses specified in division 2186
(A)(1), (2), (3), (4), (5), (6), (7), (8), or (9) of this section, 2187
as appropriate. If the request was made under section 3701.881 of 2188
the Revised Code with regard to an applicant who may be both 2189
responsible for the care, custody, or control of a child and 2190
involved in providing direct care to an older adult, the 2191
superintendent shall provide a list of the offenses specified in 2192
divisions (A)(4) and (6) of this section. 2193

(B) The superintendent shall conduct any criminal records 2194
check requested under section 121.08, 173.41, 2151.86, 3301.32, 2195
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 2196
5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, 2197
or 5153.111 of the Revised Code as follows: 2198

(1) The superintendent shall review or cause to be reviewed 2199
any relevant information gathered and compiled by the bureau under 2200
division (A) of section 109.57 of the Revised Code that relates to 2201
the person who is the subject of the request, including any 2202
relevant information contained in records that have been sealed 2203
under section 2953.32 of the Revised Code; 2204

(2) If the request received by the superintendent asks for 2205
information from the federal bureau of investigation, the 2206
superintendent shall request from the federal bureau of 2207
investigation any information it has with respect to the person 2208
who is the subject of the request and shall review or cause to be 2209

reviewed any information the superintendent receives from that 2210
bureau. 2211

(3) The superintendent or the superintendent's designee may 2212
request criminal history records from other states or the federal 2213
government pursuant to the national crime prevention and privacy 2214
compact set forth in section 109.571 of the Revised Code. 2215

(C)(1) The superintendent shall prescribe a form to obtain 2216
the information necessary to conduct a criminal records check from 2217
any person for whom a criminal records check is required by 2218
section 121.08, 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 2219
3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 2220
5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the 2221
Revised Code. The form that the superintendent prescribes pursuant 2222
to this division may be in a tangible format, in an electronic 2223
format, or in both tangible and electronic formats. 2224

(2) The superintendent shall prescribe standard impression 2225
sheets to obtain the fingerprint impressions of any person for 2226
whom a criminal records check is required by section 121.08, 2227
173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 2228
3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 2229
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. Any 2230
person for whom a records check is required by any of those 2231
sections shall obtain the fingerprint impressions at a county 2232
sheriff's office, municipal police department, or any other entity 2233
with the ability to make fingerprint impressions on the standard 2234
impression sheets prescribed by the superintendent. The office, 2235
department, or entity may charge the person a reasonable fee for 2236
making the impressions. The standard impression sheets the 2237
superintendent prescribes pursuant to this division may be in a 2238
tangible format, in an electronic format, or in both tangible and 2239
electronic formats. 2240

(3) Subject to division (D) of this section, the
superintendent shall prescribe and charge a reasonable fee for
providing a criminal records check requested under section 121.08,
173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09,
3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96,
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The
person making a criminal records request under section 121.08,
173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09,
3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96,
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code 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
district board of education under section 3319.39 of the Revised
Code. The superintendent shall apply division (A)(7) of this
section to any such request for an applicant who is a teacher.

(F) As used in this section:

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

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

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

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

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

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

Sec. 109.91. (A) There is hereby established within the 2303
office of the attorney general the crime victims assistance 2304
office. 2305

(B) There is hereby established the state victims assistance 2306
advisory committee. The committee shall consist of a chairperson, 2307
to be appointed by the attorney general, ~~four~~ three ex officio 2308
members, and fifteen members to be appointed by the attorney 2309
general as follows: one member who represents the Ohio 2310
victim-witness association; three members who represent local 2311
victim assistance programs, including one from a municipally 2312
operated program and one from a county-operated program; one 2313
member who represents the interests of elderly victims; one member 2314
who is a board member of any statewide or local organization that 2315
exists primarily to aid victims of domestic violence, or who is an 2316
employee of, or counselor for, such an organization; one member 2317
who is an employee or officer of a county probation department or 2318
a probation department operated by the department of 2319
rehabilitation and correction; one member who is a county 2320
prosecuting attorney; one member who is a city law director; one 2321
member who is a county sheriff; one member who is a member or 2322
officer of a township or municipal police department; one member 2323
who is a court of common pleas judge; one member who is a 2324
municipal court judge or county court judge; and two members who 2325
are private citizens and are not government employees. 2326

The committee shall include the following ex officio, 2327
nonvoting members: ~~the chief justice of the supreme court,~~ the 2328
attorney general, one member of the senate to be designated by the 2329
president of the senate, and one member of the house of 2330
representatives to be designated by the speaker of the house. 2331

Members of the committee shall serve without compensation, 2332
but shall be reimbursed for travel and other necessary expenses 2333

that are incurred in the conduct of their official duties as 2334
members of the committee. The chairperson and members of the 2335
committee appointed by the attorney general shall serve at the 2336
pleasure of the attorney general. The ~~chief justice of the supreme~~ 2337
~~court and the~~ attorney general shall serve on the committee until 2338
the end of the term of office that qualified ~~them~~ the attorney 2339
general for membership on the committee. The member of the senate 2340
and the member of the house of representatives shall serve at the 2341
pleasure of the president of the senate and the speaker of the 2342
house of representatives, respectively. 2343

(C) The victims assistance advisory committee shall perform 2344
both of the following duties: 2345

(1) Advise the crime victims assistance office in determining 2346
crime and delinquency victim service needs, determining crime and 2347
delinquency victim policies for the state, and improving and 2348
exercising leadership in the quality of crime and delinquency 2349
victim programs in the state; 2350

(2) Review and recommend to the crime victims assistance 2351
office the victim assistance programs that should be considered 2352
for the receipt of state financial assistance pursuant to section 2353
109.92 of the Revised Code. The financial assistance allocation 2354
recommendations of the committee shall be based on the following 2355
priorities: 2356

(a) Programs in existence on July 1, 1985, shall be given 2357
first priority; 2358

(b) Programs offering or proposing to offer the broadest 2359
range of services and referrals to the community served, including 2360
medical, psychological, financial, educational, vocational, and 2361
legal services that were not in existence on July 1, 1985, shall 2362
be given second priority; 2363

(c) Other qualified programs shall be given last priority. 2364

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

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

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

(3) Assistance to victims of crime or delinquent acts in judicial proceedings;

(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~~ 5502.61 of the Revised Code;

(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~~ division (B)(1)(a), ~~(2)(b)~~, and ~~(3)~~ or (c) of section ~~181.51~~ 5502.61 of the Revised Code.

A victim assistance program does not include the program for the reparation of crime victims established pursuant to Chapter 2743. of the Revised Code.

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.

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.

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.~~

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 2425
cost-effective, convenient method accessible to the auditor of 2426
state and the public offices; 2427

(3) When conducting an audit under this chapter of a public 2428
office that undertakes force account projects, examine the forms 2429
and records of a sampling of the force account projects the public 2430
office completed since an audit was last conducted, to determine 2431
compliance with its force account limits. 2432

(B) If the auditor of state receives a complaint from any 2433
person that a public office has violated the force account limits 2434
established for that office, the auditor of state may conduct an 2435
audit in addition to the audit provided in section 117.11 of the 2436
Revised Code if the auditor of state has reasonable cause to 2437
believe that an additional audit is in the public interest. 2438

(C)(1) If the auditor of state finds that a county, township, 2439
or municipal corporation violated the force account limits 2440
established for that political subdivision, the auditor of state, 2441
in addition to any other action authorized by this chapter, shall 2442
notify the political subdivision that, for a period of one year 2443
from the date of the notification, the force account limits for 2444
the subdivision are reduced as follows: 2445

(a) For a county, the limits shall be ten thousand dollars 2446
per mile for construction or reconstruction of a road and forty 2447
thousand dollars for construction, reconstruction, maintenance, or 2448
repair of a bridge or culvert; 2449

(b) For a township, the limit shall be fifteen thousand 2450
dollars for maintenance and repair of a road or five thousand per 2451
mile for construction or reconstruction of a township road; 2452

(c) For a municipal corporation, the limit shall be ten 2453
thousand dollars for the construction, reconstruction, widening, 2454
resurfacing, or repair of a street or other public way. 2455

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

(3) If the auditor of state finds that a county, township, or municipal corporation violated the force account limits established for that political subdivision a third or subsequent time, the auditor of state shall certify to the tax commissioner an amount the auditor of state determines to be twenty per cent of the total cost of the force account project that is the basis of the violation. Upon receipt of this certification, the tax commissioner shall withhold the certified amount from any funds under the tax commissioner's control that are due or payable to that political subdivision. The tax commissioner shall promptly deposit this withheld amount to the credit of the local transportation improvement program fund created by section 164.14 of the Revised Code.

If the tax commissioner determines that no funds are due and payable to the violating political subdivision or that insufficient amounts of such funds are available to cover the entire certified amount, the tax commissioner shall withhold and deposit to the credit of the local transportation improvement program fund any amount available and certify the remaining amount to be withheld to the county auditor of the county in which the political subdivision is located. The county auditor shall withhold from that political subdivision any amount, up to that certified by the tax commissioner, that is available from any funds under the county auditor's control, that is due or payable

to that political subdivision, and that can be lawfully withheld. 2488
The county auditor shall promptly pay that withheld amount to the 2489
tax commissioner for deposit into the local transportation 2490
improvement program fund. 2491

The payments required under division (C)(3) of this section 2492
are in addition to the force account limit reductions described in 2493
division (C)(2) of this section and also are in addition to any 2494
other action authorized by this chapter. 2495

(D) If the auditor of state finds that a county, township, or 2496
municipal corporation violated its force account limits when 2497
participating in a joint force account project, the auditor of 2498
state shall impose the reduction in force account limits under 2499
division (C) of this section on all entities participating in the 2500
joint project. 2501

(E) As used in this section, "force account limits" means any 2502
of the following, as applicable: 2503

(1) For a county, the amounts established in section 5543.19 2504
of the Revised Code as adjusted under section 117.162 of the 2505
Revised Code; 2506

(2) For a township, the amounts established in section 2507
5575.01 of the Revised Code as adjusted under section 117.162 of 2508
the Revised Code; 2509

(3) For a municipal corporation, the amount established in 2510
section 723.52 of the Revised Code as adjusted under section 2511
117.162 of the Revised Code; 2512

(4) For the department of transportation, the amount 2513
established in section 5517.02 of the Revised Code as adjusted 2514
under section 117.162 of the Revised Code. 2515

Sec. 117.162. (A) Not later than the thirty-first day of 2516
January each year, the auditor of state shall adjust county, 2517

township, municipal, and department of transportation force 2518
account limits by the percentage increase, if any, in the consumer 2519
price index over the twelve-month period that ended on the last 2520
day of December of the immediately preceding year, rounded to the 2521
nearest one-tenth of one per cent, and post the new force account 2522
limits on the auditor of state's internet site on the world wide 2523
web. Such limits shall be effective for the following twelve-month 2524
period beginning on the first day of February. 2525

(B) As used in this section: 2526

(1) "Consumer price index" means the consumer price index 2527
prepared by the United States bureau of labor statistics (U.S. 2528
city average for urban wage earners and clerical workers: all 2529
items, 1982-1984=100), or, if that index is no longer published, a 2530
generally available comparable index. 2531

(2) "Force account limits" has the same meaning as in section 2532
117.16 of the Revised Code. 2533

Sec. 120.06. (A)(1) The state public defender, when 2534
designated by the court or requested by a county public defender 2535
or joint county public defender, may provide legal representation 2536
in all courts throughout the state to indigent adults and 2537
juveniles who are charged with the commission of an offense or act 2538
for which the penalty or any possible adjudication includes the 2539
potential loss of liberty. 2540

(2) The state public defender may provide legal 2541
representation to any indigent person who, while incarcerated in 2542
any state correctional institution, is charged with a felony 2543
offense, for which the penalty or any possible adjudication that 2544
may be imposed by a court upon conviction includes the potential 2545
loss of liberty. 2546

(3) The state public defender may provide legal 2547

representation to any person incarcerated in any correctional 2548
institution of the state, in any matter in which the person 2549
asserts the person is unlawfully imprisoned or detained. 2550

(4) The state public defender, in any case in which the state 2551
public defender has provided legal representation or is requested 2552
to do so by a county public defender or joint county public 2553
defender, may provide legal representation on appeal. 2554

(5) The state public defender, when designated by the court 2555
or requested by a county public defender, joint county public 2556
defender, or the director of rehabilitation and correction, shall 2557
provide legal representation in parole and probation revocation 2558
matters or matters relating to the revocation of community control 2559
or post-release control under a community control sanction or 2560
post-release control sanction, unless the state public defender 2561
finds that the alleged parole or probation violator or alleged 2562
violator of a community control sanction or post-release control 2563
sanction has the financial capacity to retain the alleged 2564
violator's own counsel. 2565

(6) If the state public defender contracts with a county 2566
public defender commission, a joint county public defender 2567
commission, or a board of county commissioners for the provision 2568
of services, under authority of division (C)(7) of section 120.04 2569
of the Revised Code, the state public defender shall provide legal 2570
representation in accordance with the contract. 2571

(B) The state public defender shall not be required to 2572
prosecute any appeal, postconviction remedy, or other proceeding 2573
pursuant to division (A)(3), (4), or (5) of this section, unless 2574
the state public defender first is satisfied that there is 2575
arguable merit to the proceeding. 2576

(C) A court may appoint counsel or allow an indigent person 2577
to select the indigent's own personal counsel to assist the state 2578

public defender as co-counsel when the interests of justice so
require. When co-counsel is appointed to assist the state public
defender, the co-counsel shall receive any compensation that the
court may approve, not to exceed the amounts provided for in
section 2941.51 of the Revised Code.

(D)(1) When the state public defender is designated by the
court or requested by a county public defender or joint county
public defender to provide legal representation for an indigent
person in any case, other than pursuant to a contract entered into
under authority of division (C)(7) of section 120.04 of the
Revised Code, the state public defender shall send to the county
in which the case is filed ~~an itemized a bill for fifty per cent~~
~~of~~ detailing the actual cost of the representation that separately
itemizes legal fees and expenses. The county, upon receipt of an
itemized bill from the state public defender pursuant to this
division, shall ~~pay fifty per cent of the actual cost of the legal~~
~~representation as set forth in the itemized bill.~~ pay the state
public defender each of the following amounts:

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

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

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

(3) When the state public defender provides investigation or
mitigation services to private appointed counsel or to a county or

joint county public defender as approved by the appointing court, 2610
other than pursuant to a contract entered into under authority of 2611
division (C)(7) of section 120.04 of the Revised Code, the state 2612
public defender shall send to the county in which the case is 2613
filed a bill itemizing the actual cost of the services provided. 2614
The county, upon receipt of an itemized bill from the state public 2615
defender pursuant to this division, shall pay one hundred per cent 2616
of the amount as set forth in the itemized bill. Upon payment of 2617
the itemized bill received pursuant to this division, the county 2618
may submit the cost of the investigation and mitigation services 2619
to the state public defender for reimbursement pursuant to section 2620
120.33 of the Revised Code. 2621

(4) There is hereby created in the state treasury the county 2622
representation fund for the deposit of moneys received from 2623
counties under this division. All moneys credited to the fund 2624
shall be used by the state public defender to provide legal 2625
representation for indigent persons when designated by the court 2626
or requested by a county or joint county public defender or to 2627
provide investigation or mitigation services, including 2628
investigation or mitigation services to private appointed counsel 2629
or a county or joint county public defender, as approved by the 2630
court. 2631

(E)(1) Notwithstanding any contrary provision of sections 2632
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised Code 2633
that pertains to representation by the attorney general, an 2634
assistant attorney general, or special counsel of an officer or 2635
employee, as defined in section 109.36 of the Revised Code, or of 2636
an entity of state government, the state public defender may elect 2637
to contract with, and to have the state pay pursuant to division 2638
(E)(2) of this section for the services of, private legal counsel 2639
to represent the Ohio public defender commission, the state public 2640
defender, assistant state public defenders, other employees of the 2641

commission or the state public defender, and attorneys described 2642
in division (C) of section 120.41 of the Revised Code in a 2643
malpractice or other civil action or proceeding that arises from 2644
alleged actions or omissions related to responsibilities derived 2645
pursuant to this chapter, or in a civil action that is based upon 2646
alleged violations of the constitution or statutes of the United 2647
States, including section 1983 of Title 42 of the United States 2648
Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that 2649
arises from alleged actions or omissions related to 2650
responsibilities derived pursuant to this chapter, if the state 2651
public defender determines, in good faith, that the defendant in 2652
the civil action or proceeding did not act manifestly outside the 2653
scope of the defendant's employment or official responsibilities, 2654
with malicious purpose, in bad faith, or in a wanton or reckless 2655
manner. If the state public defender elects not to contract 2656
pursuant to this division for private legal counsel in a civil 2657
action or proceeding, then, in accordance with sections 109.02, 2658
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 2659
attorney general shall represent or provide for the representation 2660
of the Ohio public defender commission, the state public defender, 2661
assistant state public defenders, other employees of the 2662
commission or the state public defender, or attorneys described in 2663
division (C) of section 120.41 of the Revised Code in the civil 2664
action or proceeding. 2665

(2)(a) Subject to division (E)(2)(b) of this section, payment 2666
from the state treasury for the services of private legal counsel 2667
with whom the state public defender has contracted pursuant to 2668
division (E)(1) of this section shall be accomplished only through 2669
the following procedure: 2670

(i) The private legal counsel shall file with the attorney 2671
general a copy of the contract; a request for an award of legal 2672
fees, court costs, and expenses earned or incurred in connection 2673

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

(ii) Upon receipt of a request for an award of legal fees,
court costs, and expenses and the requisite supportive
documentation described in division (E)(2)(a)(i) of this section,
the attorney general shall review the request and documentation;
determine whether any of the limitations specified in division
(E)(2)(b) of this section apply to the request; and, if an award
of legal fees, court costs, or expenses is permissible after
applying the limitations, prepare a document awarding legal fees,

court costs, or expenses to the private legal counsel. The 2706
document shall name the private legal counsel as the recipient of 2707
the award; specify the total amount of the award as determined by 2708
the attorney general; itemize the portions of the award that 2709
represent legal fees, court costs, and expenses; specify any 2710
limitation applied pursuant to division (E)(2)(b) of this section 2711
to reduce the amount of the award sought by the private legal 2712
counsel; state that the award is payable from the state treasury 2713
pursuant to division (E)(2)(a)(iii) of this section; and be 2714
approved by the inclusion of the signatures of the attorney 2715
general, the state public defender, and the private legal counsel. 2716

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

portion of the award that exceeds the sufficient available balance 2738
in the state public defender's appropriations, the director shall 2739
cause the payment to be made to the private legal counsel. If 2740
sufficient moneys do not exist in the emergency purposes account 2741
or other appropriation for emergencies or contingencies to pay an 2742
amount equal to the portion of the award that exceeds the 2743
sufficient available balance in the state public defender's 2744
appropriations, the private legal counsel shall request the 2745
general assembly to make an appropriation sufficient to pay an 2746
amount equal to the portion of the award that exceeds the 2747
sufficient available balance in the state public defender's 2748
appropriations, and no payment in that amount shall be made until 2749
the appropriation has been made. The private legal counsel shall 2750
make the request during the current biennium and during each 2751
succeeding biennium until a sufficient appropriation is made. 2752

(b) An award of legal fees, court costs, and expenses 2753
pursuant to division (E) of this section is subject to the 2754
following limitations: 2755

(i) The maximum award or maximum aggregate of a series of 2756
awards of legal fees, court costs, and expenses to the private 2757
legal counsel in connection with the defense of the Ohio public 2758
defender commission, the state public defender, an assistant state 2759
public defender, an employee, or an attorney in a specified civil 2760
action or proceeding shall not exceed fifty thousand dollars. 2761

(ii) The private legal counsel shall not be awarded legal 2762
fees, court costs, or expenses to the extent the fees, costs, or 2763
expenses are covered by a policy of malpractice or other 2764
insurance. 2765

(iii) The private legal counsel shall be awarded legal fees 2766
and expenses only to the extent that the fees and expenses are 2767
reasonable in light of the legal services rendered by the private 2768

legal counsel in connection with the defense of the Ohio public 2769
defender commission, the state public defender, an assistant state 2770
public defender, an employee, or an attorney in a specified civil 2771
action or proceeding. 2772

(c) If, pursuant to division (E)(2)(a) of this section, the 2773
attorney general denies a request for an award of legal fees, 2774
court costs, or expenses to private legal counsel because of the 2775
application of a limitation specified in division (E)(2)(b) of 2776
this section, the attorney general shall notify the private legal 2777
counsel in writing of the denial and of the limitation applied. 2778

(d) If, pursuant to division (E)(2)(c) of this section, a 2779
private legal counsel receives a denial of an award notification 2780
or if a private legal counsel refuses to approve a document under 2781
division (E)(2)(a)(ii) of this section because of the proposed 2782
application of a limitation specified in division (E)(2)(b) of 2783
this section, the private legal counsel may commence a civil 2784
action against the attorney general in the court of claims to 2785
prove the private legal counsel's entitlement to the award sought, 2786
to prove that division (E)(2)(b) of this section does not prohibit 2787
or otherwise limit the award sought, and to recover a judgment for 2788
the amount of the award sought. A civil action under division 2789
(E)(2)(d) of this section shall be commenced no later than two 2790
years after receipt of a denial of award notification or, if the 2791
private legal counsel refused to approve a document under division 2792
(E)(2)(a)(ii) of this section because of the proposed application 2793
of a limitation specified in division (E)(2)(b) of this section, 2794
no later than two years after the refusal. Any judgment of the 2795
court of claims in favor of the private legal counsel shall be 2796
paid from the state treasury in accordance with division (E)(2)(a) 2797
of this section. 2798

(F) If a court appoints the office of the state public 2799
defender to represent a petitioner in a postconviction relief 2800

proceeding under section 2953.21 of the Revised Code, the
petitioner has received a sentence of death, and the proceeding
relates to that sentence, all of the attorneys who represent the
petitioner in the proceeding pursuant to the appointment, whether
an assistant state public defender, the state public defender, or
another attorney, shall be certified under Rule 20 of the Rules of
Superintendence for the Courts of Ohio to represent indigent
defendants charged with or convicted of an offense for which the
death penalty can be or has been imposed.

(G) As used in this section:

(1) "Community control sanction" has the same meaning as in
section 2929.01 of the Revised Code.

(2) "Post-release control sanction" has the same meaning as
in section 2967.01 of the Revised Code.

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.

(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.

(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~~
the member was appointed. Any member appointed to fill a vacancy
occurring prior to the expiration of the term for which ~~his~~ the
member's predecessor was appointed shall hold office for the
remainder of such term. Any member shall continue in office
subsequent to the expiration date of ~~his~~ the member's term until
~~his~~ a successor takes office, or until a period of sixty days has
elapsed, whichever occurs first.

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

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

(F) ~~Fifty per cent of the~~ The cost of representation in all

matters assumed by the state public defender shall be charged to 2863
the counties in accordance with division (D) of section 120.06 of 2864
the Revised Code. 2865

Sec. 120.23. (A) The boards of county commissioners in two or 2866
more adjoining or neighboring counties may form themselves into a 2867
joint board and proceed to organize a district for the 2868
establishment of a joint county public defender commission. The 2869
commission shall have three members from each county, who shall be 2870
appointed by the board of county commissioners of the county. 2871

(B) The boards shall agree on a specific date for the joint 2872
county public defender commission to be established, on which date 2873
the appointments of all members shall take effect. The joint board 2874
shall notify the Ohio public defender commission of the date. 2875

(C) Of the initial appointments made by each county to the 2876
joint county public defender commission, one appointment shall be 2877
for a term of one year ending one year after the date the 2878
commission is established, one appointment shall be for a term of 2879
two years ending two years after the date the commission is 2880
established, and one appointment shall be for a period of three 2881
years, ending three years after the date the commission is 2882
established. Thereafter, terms of office shall be for three years, 2883
each term ending on the same day of the same month of the year as 2884
did the term which it succeeds. Each member shall hold office from 2885
the date of ~~his~~ appointment until the end of the term for which ~~he~~ 2886
the member was appointed. Any member appointed to fill a vacancy 2887
occurring prior to the expiration of the term for which ~~his~~ the 2888
member's predecessor was appointed shall hold office for the 2889
remainder of the term. Any member shall continue in office 2890
subsequent to the expiration date of ~~his~~ the member's term until 2891
~~his~~ a successor takes office, or until a period of sixty days has 2892
elapsed, whichever occurs first. 2893

(D) The members of the commission shall choose as ~~chairman~~ 2894
chairperson one of the commission members, who shall serve as 2895
~~chairman~~ chairperson for two years. Meetings shall be held at 2896
least quarterly and at such other times as called by the ~~chairman~~ 2897
chairperson or by request of the joint county public defender. 2898
Members of the commission may receive an amount fixed by the 2899
agreement of the boards of commissioners of the counties in the 2900
district, but not in excess of the amount set for the members of 2901
the Ohio public defender commission pursuant to section 124.14 of 2902
the Revised Code per diem for every meeting of the commission they 2903
attend, and necessary expenses including mileage for each mile 2904
necessarily traveled. 2905

(E) The agreement of the boards of county commissioners 2906
establishing the joint county public defender commission shall 2907
provide for the allocation of the proportion of expenses to be 2908
paid by each county, which may be based upon population, number of 2909
cases, or such other factors as the commissioners determine to be 2910
appropriate. The county commissioners may amend their agreement 2911
from time to time to provide for a different allocation of the 2912
proportion of expenses to be paid by each county. 2913

(F) The county auditor of the county⁷ with the greatest 2914
population is hereby designated as the fiscal officer of a joint 2915
county public defender district organized under this section. The 2916
county auditors of the several counties composing the joint county 2917
public defender commission district shall meet at the commission 2918
office not less than once in each six months, to adjust accounts 2919
and to transact such other duties in connection with the 2920
commission as pertain to the business of their office. 2921

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

expenses upon a warrant drawn by the county auditor of ~~his~~ the 2926
member's county. 2927

(H) The board of county commissioners of any county within a 2928
joint county public defender commission district may withdraw from 2929
the district. Such withdrawal shall not be effective until at 2930
least ninety days after the board has notified the Ohio public 2931
defender commission, the joint county public defender commission 2932
of the district, and each board of county commissioners in the 2933
district, in writing of the termination date. The failure of a 2934
board of county commissioners to approve an annual operating 2935
budget for the office of the joint county public defender as 2936
provided in division (C)(1) of section 120.24 of the Revised Code 2937
constitutes a notice of withdrawal by the county from the 2938
district, effective on the ninetieth day after commencement of the 2939
next fiscal year. Upon the termination date, all joint county 2940
public defender matters relating to the withdrawing county shall 2941
be transferred to the state public defender, a county public 2942
defender, or appointed counsel. 2943

(I) ~~Fifty per cent of the~~ The cost of representation in all 2944
matters assumed by the state public defender shall be charged to 2945
the counties in accordance with division (D) of section 120.06 of 2946
the Revised Code. 2947

Members of the joint county public defender commission who 2948
are residents of a county withdrawing from such district are 2949
deemed to have resigned their positions upon the completion of the 2950
withdrawal procedure provided by this section. Vacancies thus 2951
created shall not be filled. 2952

If two or more counties remain within the district after the 2953
withdrawal, the boards of county commissioners of the remaining 2954
adjoining or neighboring counties may agree to continue the 2955
operation of the joint county public defender commission and to 2956
reallocate the proportionate share of expenses to be paid by each 2957

participating county.

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

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

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

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

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

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(D) The clerk of court shall forward all application fees

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collected pursuant to this section to the county treasurer for 2988
deposit in the county treasury. The county shall retain eighty per 2989
cent of the application fees so collected to offset the costs of 2990
providing legal representation to indigent persons. Each month, 2991
the county auditor shall remit twenty per cent of the application 2992
fees so collected to the state public defender. The state public 2993
defender shall deposit the remitted fees into the state treasury 2994
to the credit of the client payment fund created pursuant to 2995
division (B)(5) of section 120.04 of the Revised Code. The state 2996
public defender may use that money in accordance with that 2997
section. 2998

(E) On or before the first day of March of each year, each 2999
clerk of court shall provide to the state public defender and the 3000
state auditor a report including all of the following: 3001

(1) The number of persons who requested or were provided a 3002
state public defender, county or joint county public defender, or 3003
other counsel appointed by the court; 3004

(2) The number of persons for whom the court waived the 3005
application fee pursuant to division (A) of this section; 3006

(3) The dollar value of the assessed application fees 3007
pursuant to division (A) of this section in the previous year; 3008

(4) The amount of assessed application fees collected in the 3009
previous year; 3010

(5) The balance of unpaid assessed application fees at the 3011
open and close of the previous year. 3012

(F) As used in this section: 3013

(1) "Clerk of court" means the clerk of the court of common 3014
pleas of the county, the clerk of the juvenile court of the 3015
county, the clerk of a municipal court in the county, the clerk of 3016
a county-operated municipal court, or the clerk of a county court 3017

in the county, whichever is applicable.

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

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Sec. 120.52. There is hereby established in the state
treasury the legal aid fund, which shall be for the charitable
public purpose of providing financial assistance to legal aid
societies that provide civil legal services to indigents. The fund
shall contain all funds credited to it by the treasurer of state
pursuant to sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09
and 4705.10 of the Revised Code and income from investment
credited to it by the treasurer of state in accordance with this
section.

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

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The state public defender, through the Ohio legal assistance
foundation, shall administer the payment of moneys out of the
fund. Four and one-half per cent of the moneys in the fund shall
be reserved for the actual, reasonable costs of administering
sections 120.51 to 120.55 and sections 1901.26, 1907.24, 2303.201,
3953.231, 4705.09, and 4705.10 of the Revised Code. Moneys that
are reserved for administrative costs but that are not used for
actual, reasonable administrative costs shall be set aside for use
in the manner described in division (A) of section 120.521 of the
Revised Code. The remainder of the moneys in the legal aid fund
shall be distributed in accordance with section 120.53 of the
Revised Code. The Ohio legal assistance foundation shall establish

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rules governing the administration of the legal aid fund, 3049
including the ~~program~~ programs established under sections 1901.26, 3050
1907.24, 2303.201, 3953.231, 4705.09, and 4705.10 of the Revised 3051
Code regarding interest on interest-bearing trust accounts of an 3052
attorney, law firm, or legal professional association. 3053

Sec. 120.53. (A) A legal aid society that operates within the 3054
state may apply to the Ohio legal assistance foundation for 3055
financial assistance from the legal aid fund established by 3056
section 120.52 of the Revised Code to be used for the funding of 3057
the society during the calendar year following the calendar year 3058
in which application is made. 3059

(B) An application for financial assistance made under 3060
division (A) of this section shall be submitted by the first day 3061
of November of the calendar year preceding the calendar year for 3062
which financial assistance is desired and shall include all of the 3063
following: 3064

(1) Evidence that the applicant is incorporated in this state 3065
as a nonprofit corporation; 3066

(2) A list of the trustees of the applicant; 3067

(3) The proposed budget of the applicant for these funds for 3068
the following calendar year; 3069

(4) A summary of the services to be offered by the applicant 3070
in the following calendar year; 3071

(5) A specific description of the territory or constituency 3072
served by the applicant; 3073

(6) An estimate of the number of persons to be served by the 3074
applicant during the following calendar year; 3075

(7) A general description of the additional sources of the 3076
applicant's funding; 3077

(8) The amount of the applicant's total budget for the 3078
calendar year in which the application is filed that it will 3079
expend in that calendar year for legal services in each of the 3080
counties it serves; 3081

(9) A specific description of any services, programs, 3082
training, and legal technical assistance to be delivered by the 3083
applicant or by another person pursuant to a contract with the 3084
applicant, including, but not limited to, by private attorneys or 3085
through reduced fee plans, judicare panels, organized pro bono 3086
programs, and mediation programs. 3087

(C) The Ohio legal assistance foundation shall determine 3088
whether each applicant that filed an application for financial 3089
assistance under division (A) of this section in a calendar year 3090
is eligible for financial assistance under this section. To be 3091
eligible for such financial assistance, an applicant shall satisfy 3092
the criteria for being a legal aid society and shall be in 3093
compliance with the provisions of sections 120.51 to 120.55 of the 3094
Revised Code and with the rules and requirements the foundation 3095
establishes pursuant to section 120.52 of the Revised Code. The 3096
Ohio legal assistance foundation then, on or before the fifteenth 3097
day of December of the calendar year in which the application is 3098
filed, shall notify each such applicant, in writing, whether it is 3099
eligible for financial assistance under this section, and if it is 3100
eligible, estimate the amount that will be available for that 3101
applicant for each six-month distribution period, as determined 3102
under division (D) of this section. 3103

(D) The Ohio legal assistance foundation shall allocate 3104
moneys contained in the legal aid fund twice each year for 3105
distribution to applicants that filed their applications in the 3106
previous calendar year and were determined to be eligible 3107
applicants. 3108

All moneys contained in the fund on the first day of January 3109
of a calendar year shall be allocated, after deduction of the 3110
costs of administering sections 120.51 to 120.55 and sections 3111
1901.26, 1907.24, 2303.201, 3953.231, 4705.09, and 4705.10 of the 3112
Revised Code that are authorized by section 120.52 of the Revised 3113
Code, according to this section and shall be distributed 3114
accordingly on the thirty-first day of January of that calendar 3115
year, and all moneys contained in the fund on the first day of 3116
July of that calendar year shall be allocated, after deduction of 3117
the costs of administering those sections that are authorized by 3118
section 120.52 of the Revised Code, according to this section and 3119
shall be distributed accordingly on the thirty-first day of July 3120
of that calendar year. In making the allocations under this 3121
section, the moneys in the fund that were generated pursuant to 3122
sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09, and 3123
4705.10 of the Revised Code and all income generated from the 3124
investment of such moneys shall be apportioned as follows: 3125

(1) After deduction of the amount authorized and used for 3126
actual, reasonable administrative costs under section 120.52 of 3127
the Revised Code: 3128

(a) Five per cent of the moneys remaining in the fund, ~~plus~~ 3129
~~any moneys reserved for administrative costs under that section~~ 3130
~~that are not used for actual, reasonable administrative costs,~~ 3131
shall be reserved for use in the manner described in division (A) 3132
of section 120.521 of the Revised Code or for distribution to 3133
legal aid societies that provide assistance to special population 3134
groups of their eligible clients, engage in special projects that 3135
have a substantial impact on their local service area or on 3136
significant segments of the state's poverty population, or provide 3137
legal training or support to other legal aid societies in the 3138
state; 3139

(b) After deduction of the amount described in division 3140

(D)(1)(a) of this section, one and three-quarters per cent of the 3141
moneys remaining in the fund shall be apportioned among entities 3142
that received financial assistance from the legal aid fund prior 3143
to the effective date of this amendment but that, on and after the 3144
effective date of this amendment, no longer qualify as a legal aid 3145
society that is eligible for financial assistance under this 3146
section. 3147

(c) After deduction of the amounts described in divisions 3148
(D)(1)(a) and (b) of this section, fifteen per cent of the moneys 3149
remaining in the fund shall be placed in the legal assistance 3150
foundation fund for use in the manner described in division (A) of 3151
section 120.521 of the Revised Code. 3152

(2) After deduction of the actual, reasonable administrative 3153
costs under section 120.52 of the Revised Code and after deduction 3154
of the amounts identified in ~~division~~ divisions (D)(1)(a) and, 3155
(b), and (c) of this section, the remaining moneys shall be 3156
apportioned among the counties that are served by eligible legal 3157
aid societies that have applied for financial assistance under 3158
this section so that each such county is apportioned a portion of 3159
those moneys, based upon the ratio of the number of indigents who 3160
reside in that county to the total number of indigents who reside 3161
in all counties of this state that are served by eligible legal 3162
aid societies that have applied for financial assistance under 3163
this section. Subject to division (E) of this section, the moneys 3164
apportioned to a county under this division then shall be 3165
allocated to the eligible legal aid society that serves the county 3166
and that has applied for financial assistance under this section. 3167
For purposes of this division, the source of data identifying the 3168
number of indigent persons who reside in a county shall be the 3169
most recent decennial census figures from the United States 3170
department of commerce, division of census. 3171

(E) If the Ohio legal assistance foundation, in attempting to 3172

make an allocation of moneys under division (D)(2) of this 3173
section, determines that a county that has been apportioned money 3174
under that division is served by more than one eligible legal aid 3175
society that has applied for financial assistance under this 3176
section, the Ohio legal assistance foundation shall allocate the 3177
moneys that have been apportioned to that county under division 3178
(D)(2) of this section among all eligible legal aid societies that 3179
serve that county and that have applied for financial assistance 3180
under this section on a pro rata basis, so that each such eligible 3181
society is allocated a portion based upon the amount of its total 3182
budget expended in the prior calendar year for legal services in 3183
that county as compared to the total amount expended in the prior 3184
calendar year for legal services in that county by all eligible 3185
legal aid societies that serve that county and that have applied 3186
for financial assistance under this section. 3187

(F) Moneys allocated to eligible applicants under this 3188
section shall be paid twice annually, on the thirty-first day of 3189
January and on the thirty-first day of July of the calendar year 3190
following the calendar year in which the application is filed. 3191

(G)(1) A legal aid society that receives financial assistance 3192
in any calendar year under this section shall file an annual 3193
report with the Ohio legal assistance foundation detailing the 3194
number and types of cases handled, and the amount and types of 3195
legal training, legal technical assistance, and other service 3196
provided, by means of that financial assistance. No information 3197
contained in the report shall identify or enable the 3198
identification of any person served by the legal aid society or in 3199
any way breach client confidentiality. 3200

(2) The Ohio legal assistance foundation shall make an annual 3201
report to the governor, the general assembly, and the supreme 3202
court on the distribution and use of the legal aid fund. The 3203
foundation also shall include in the annual report an audited 3204

financial statement of all gifts, bequests, donations, 3205
contributions, and other moneys the foundation receives. No 3206
information contained in the report shall identify or enable the 3207
identification of any person served by a legal aid society, or in 3208
any way breach confidentiality. 3209

(H) A legal aid society may enter into agreements for the 3210
provision of services, programs, training, or legal technical 3211
assistance for the legal aid society or to indigent persons. 3212

Sec. 121.37. (A)(1) There is hereby created the Ohio family 3213
and children first cabinet council. The council shall be composed 3214
of the superintendent of public instruction and the directors of 3215
youth services, job and family services, mental health, health, 3216
alcohol and drug addiction services, mental retardation and 3217
developmental disabilities, and budget and management. The 3218
chairperson of the council shall be the governor or the governor's 3219
designee and shall establish procedures for the council's internal 3220
control and management. 3221

(2) The purpose of the cabinet council is to help families 3222
seeking government services. This section shall not be interpreted 3223
or applied to usurp the role of parents, but solely to streamline 3224
and coordinate existing government services for families seeking 3225
assistance for their children. 3226

In seeking to fulfill its purpose, the council may do any of 3227
the following: 3228

(a) Advise and make recommendations to the governor and 3229
general assembly regarding the provision of services to children; 3230

(b) Advise and assess local governments on the coordination 3231
of service delivery to children; 3232

(c) Hold meetings at such times and places as may be 3233
prescribed by the council's procedures and maintain records of the 3234

meetings, except that records identifying individual children are	3235
confidential and shall be disclosed only as provided by law;	3236
(d) Develop programs and projects, including pilot projects,	3237
to encourage coordinated efforts at the state and local level to	3238
improve the state's social service delivery system;	3239
(e) Enter into contracts with and administer grants to county	3240
family and children first councils, as well as other county or	3241
multicounty organizations to plan and coordinate service delivery	3242
between state agencies and local service providers for families	3243
and children;	3244
(f) Enter into contracts with and apply for grants from	3245
federal agencies or private organizations;	3246
(g) Enter into interagency agreements to encourage	3247
coordinated efforts at the state and local level to improve the	3248
state's social service delivery system. The agreements may include	3249
provisions regarding the receipt, transfer, and expenditure of	3250
funds;	3251
(h) Identify public and private funding sources for services	3252
provided to alleged or adjudicated unruly children and children	3253
who are at risk of being alleged or adjudicated unruly children,	3254
including regulations governing access to and use of the services;	3255
(i) Collect information provided by local communities	3256
regarding successful programs for prevention, intervention, and	3257
treatment of unruly behavior, including evaluations of the	3258
programs;	3259
(j) Identify and disseminate publications regarding alleged	3260
or adjudicated unruly children and children who are at risk of	3261
being alleged or adjudicated unruly children and regarding	3262
programs serving those types of children;	3263
(k) Maintain an inventory of strategic planning facilitators	3264

for use by government or nonprofit entities that serve alleged or
adjudicated unruly children or children who are at risk of being
alleged or adjudicated unruly children.

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(3) The cabinet council shall provide for the following:

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(a) Reviews of service and treatment plans for children for
which such reviews are requested;

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(b) Assistance as the council determines to be necessary to
meet the needs of children referred by county family and children
first councils;

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

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

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

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(b) The director of the board of alcohol, drug addiction, and

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mental health services that serves the county, or, in the case of 3295
a county that has a board of alcohol and drug addiction services 3296
and a community mental health board, the directors of both boards- 3297
~~If a board of alcohol, drug addiction, and mental health services~~ 3298
~~covers more than one county, the director may designate a person~~ 3299
~~to participate on the county's council.;~~ 3300

(c) The health commissioner, ~~or the commissioner's designee,~~ 3301
of the board of health of each city and general health district in 3302
the county. If the county has two or more health districts, the 3303
health commissioner membership may be limited to the commissioners 3304
of the two districts with the largest populations. 3305

(d) The director of the county department of job and family 3306
services; 3307

(e) The executive director of the ~~county agency responsible~~ 3308
~~for the administration of~~ public children services ~~pursuant to~~ 3309
~~section 5153.15 of the Revised Code~~ agency; 3310

(f) The superintendent of the county board of mental 3311
retardation and developmental disabilities; 3312

(g) The county's juvenile court judge senior in service or 3313
another judge of the juvenile court designated by the 3314
administrative judge or, where there is no administrative judge, 3315
by the judge senior in service; 3316

(h) The superintendent of the city, exempted village, or 3317
local school district with the largest number of pupils residing 3318
in the county, as determined by the department of education, which 3319
shall notify each board of county commissioners of its 3320
determination at least biennially; 3321

(i) A school superintendent representing all other school 3322
districts with territory in the county, as designated at a 3323
biennial meeting of the superintendents of those districts; 3324

(j) A representative of the municipal corporation with the largest population in the county;

(k) The president of the board of county commissioners, ~~or an individual designated by the board;~~

(l) A representative of the regional office of the department of youth services;

(m) A representative of the county's head start agencies, as defined in section ~~3301.31~~ 3301.32 of the Revised Code;

(n) A representative of the county's early intervention collaborative established pursuant to the federal early intervention program operated under the "Education of the Handicapped Act Amendments of 1986";

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

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

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

The cabinet council shall establish a state appeals process to resolve disputes among the members of a county council concerning whether reasonable responsibilities as members are being shared. The appeals process may be accessed only by a

majority vote of the council members who are required to serve on 3355
the council. Upon appeal, the cabinet council may order that state 3356
funds for services to children and families be redirected to a 3357
county's board of county commissioners. 3358

(2) A county council shall provide for the following: 3359

(a) Referrals to the cabinet council of those children for 3360
whom the county council cannot provide adequate services; 3361

(b) Development and implementation of a process that annually 3362
evaluates and prioritizes services, fills service gaps where 3363
possible, and invents new approaches to achieve better results for 3364
families and children; 3365

(c) Participation in the development of a countywide, 3366
comprehensive, coordinated, multi-disciplinary, interagency system 3367
for infants and toddlers with developmental disabilities or delays 3368
and their families, as established pursuant to federal grants 3369
received and administered by the department of health for early 3370
intervention services under the "Education of the Handicapped Act 3371
Amendments of 1986"; 3372

(d) Maintenance of an accountability system to monitor the 3373
county council's progress in achieving results for families and 3374
children; 3375

(e) Establishment of a mechanism to ensure ongoing input from 3376
a broad representation of families who are receiving services 3377
within the county system. 3378

(3)(a) Except as provided in division (B)(3)(b) of this 3379
section, a county council shall comply with the policies, 3380
procedures, and activities prescribed by the rules or interagency 3381
agreements of a state department participating on the cabinet 3382
council whenever the county council performs a function subject to 3383
those rules or agreements. 3384

(b) On application of a county council, the cabinet council 3385
may grant an exemption from any rules or interagency agreements of 3386
a state department participating on the council if an exemption is 3387
necessary for the council to implement an alternative program or 3388
approach for service delivery to families and children. The 3389
application shall describe the proposed program or approach and 3390
specify the rules or interagency agreements from which an 3391
exemption is necessary. The cabinet council shall approve or 3392
disapprove the application in accordance with standards and 3393
procedures it shall adopt. If an application is approved, the 3394
exemption is effective only while the program or approach is being 3395
implemented, including a reasonable period during which the 3396
program or approach is being evaluated for effectiveness. 3397

(4)(a) Each county council shall designate an administrative 3398
agent for the council from among the following public entities: 3399
the board of alcohol, drug addiction, and mental health services, 3400
including a board of alcohol and drug addiction or a community 3401
mental health board if the county is served by separate boards; 3402
the board of county commissioners; any board of health of the 3403
county's city and general health districts; the county department 3404
of job and family services; the county agency responsible for the 3405
administration of children services pursuant to section 5153.15 of 3406
the Revised Code; the county board of mental retardation and 3407
developmental disabilities; any of the county's boards of 3408
education or governing boards of educational service centers; or 3409
the county's juvenile court. Any of the foregoing public entities, 3410
other than the board of county commissioners, may decline to serve 3411
as the council's administrative agent. 3412

A county council's administrative agent shall serve as the 3413
council's appointing authority for any employees of the council. 3414
The council shall file an annual budget with its administrative 3415
agent, with copies filed with the county auditor and with the 3416

board of county commissioners, unless the board is serving as the
council's administrative agent. The council's administrative agent
shall ensure that all expenditures are handled in accordance with
policies, procedures, and activities prescribed by state
departments in rules or interagency agreements that are applicable
to the council's functions.

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

(i) Enter into agreements or administer contracts with public
or private entities to fulfill specific council business. Such
agreements and contracts are exempt from the competitive bidding
requirements of section 307.86 of the Revised Code if they have
been approved by the county council and they are for the purchase
of family and child welfare or child protection services or other
social or job and family services for families and children. The
approval of the county council is not required to exempt
agreements or contracts entered into under section 5139.34,
5139.41, or 5139.43 of the Revised Code from the competitive
bidding requirements of section 307.86 of the Revised Code.

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

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

(b)(i) If the county council designates the board of county
commissioners as its administrative agent, the board may, by

resolution, delegate any of its powers and duties as 3448
administrative agent to an executive committee the board 3449
establishes from the membership of the county council. The board 3450
shall name to the executive committee at least the individuals 3451
described in divisions (B)(1)~~(b) through (h)~~(a) to (i) of this 3452
section and may appoint the president of the board or another 3453
individual as the chair of the executive committee. 3454

(ii) The executive committee may, with the approval of the 3455
board, hire an executive director to assist the county council in 3456
administering its powers and duties. The executive director shall 3457
serve in the unclassified civil service at the pleasure of the 3458
executive committee. The executive director may, with the approval 3459
of the executive committee, hire other employees as necessary to 3460
properly conduct the county council's business. 3461

(iii) The board may require the executive committee to submit 3462
an annual budget to the board for approval and may amend or repeal 3463
the resolution that delegated to the executive committee its 3464
authority as the county council's administrative agent. 3465

(5) Two or more county councils may enter into an agreement 3466
to administer their county councils jointly by creating a regional 3467
family and children first council. A regional council possesses 3468
the same duties and authority possessed by a county council, 3469
except that the duties and authority apply regionally rather than 3470
to individual counties. Prior to entering into an agreement to 3471
create a regional council, the members of each county council to 3472
be part of the regional council shall meet to determine whether 3473
all or part of the members of each county council will serve as 3474
members of the regional council. 3475

(6) A board of county commissioners may approve a resolution 3476
by a majority vote of the board's members that requires the county 3477
council to submit a statement to the board each time the council 3478

proposes to enter into an agreement, adopt a plan, or make a
decision, other than a decision pursuant to section 121.38 of the
Revised Code, that requires the expenditure of funds for two or
more families. The statement shall describe the proposed
agreement, plan, or decision.

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

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

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

Each mechanism shall include all of the following:

(1) A procedure for ~~assessing the needs of any child,~~
~~including a child who is an abused, neglected, dependent, unruly,~~
~~or delinquent child and under the jurisdiction of the juvenile~~
~~court or a child whose parent or custodian is voluntarily seeking~~
services a family seeking service coordination for the family's

child to refer itself to the county council for coordination in 3510
accordance with the county service coordination mechanism; 3511

(2) A procedure for an agency, including a juvenile court, to 3512
refer a child and family to the county council for coordination in 3513
accordance with the county service coordination mechanism; 3514

(3) A procedure that does one of the following: 3515

(a) Permits a family to be involved in the service 3516
coordination mechanism by being notified of and invited to all 3517
meetings involved in the mechanism; 3518

(b) Permits a family to initiate a meeting to develop or 3519
review the family's service coordination plan and allows the 3520
family to invite a family advocate, mentor, or support person of 3521
the family's choice to any such meeting. 3522

(4) A procedure for notifying and inviting to all meetings 3523
appropriate staff from involved agencies, including a 3524
representative from the appropriate school district; 3525

(5) A procedure for ensuring that a service coordination 3526
meeting is conducted before a non-emergency out-of-home placement 3527
or long-term placement is made and that, in situations involving 3528
an emergency out-of-home placement, a service coordination meeting 3529
is conducted within ten days of the placement. 3530

(6) A procedure for monitoring the progress and tracking the 3531
outcomes of each service coordination plan requested in the county 3532
including monitoring and tracking children in out-of-home 3533
placements to assure continued progress, appropriateness of 3534
placement, and continuity of care after discharge from placement 3535
with appropriate arrangements for housing, treatment, and 3536
education. 3537

(7) A procedure for protecting the confidentiality of all 3538
personal family information disclosed during service coordination 3539

meetings or contained in the comprehensive family service 3540
coordination plan. 3541

(8) A procedure for assessing the ~~service~~ needs and strengths 3542
of ~~the family of~~ any child or family that has been referred to the 3543
council for service coordination, including a child ~~who is an~~ 3544
~~abused, neglected, dependent, unruly, or delinquent child and~~ 3545
~~under the jurisdiction of the juvenile court or a child~~ whose 3546
parent or custodian is voluntarily seeking services, and for 3547
ensuring that parents and custodians are afforded the opportunity 3548
to participate; 3549

~~(3)~~(9) A procedure for development of a comprehensive ~~joint~~ 3550
family service coordination plan described in division (D) of this 3551
section; 3552

~~(4)~~(10) A local dispute resolution process to serve as the 3553
process that must be used first to resolve disputes among the 3554
agencies represented on the county council concerning the 3555
provision of services to children, including children who are 3556
abused, neglected, dependent, unruly, alleged unruly, or 3557
delinquent children and under the jurisdiction of the juvenile 3558
court and children whose parents or custodians are voluntarily 3559
seeking services. The local dispute resolution process shall 3560
comply with section 121.38 of the Revised Code. The local dispute 3561
resolution process may also be used for disputes between an agency 3562
and a child's parents or custodian. In that case it shall comply 3563
with sections 121.381 and 121.382 of the Revised Code, as well as 3564
section 121.38 of the Revised Code. ~~The~~ 3565

The cabinet council shall adopt rules in accordance with 3566
Chapter 119. of the Revised Code establishing an administrative 3567
review process to address problems that arise concerning the 3568
operation of a local dispute resolution process. 3569

Nothing in division (C)(5) of this section shall be 3570

interpreted as overriding or affecting decisions of a juvenile 3571
court regarding an out-of-home placement, long-term placement, or 3572
emergency out-of-home placement. 3573

(D) Each county shall develop a comprehensive ~~joint~~ family 3574
service coordination plan that does ~~both~~ all of the following: 3575

(1) Designates service responsibilities among the various 3576
state and local agencies that provide services to children and 3577
their families, including children who are abused, neglected, 3578
dependent, unruly, or delinquent children and under the 3579
jurisdiction of the juvenile court and children whose parents or 3580
custodians are voluntarily seeking services; 3581

(2) Designates the lead family plan coordinator, approved by 3582
the family, to ensure the coordination of and fidelity to the 3583
plan; 3584

(3) Ensures that assistance and services to be provided are 3585
responsive to the strengths and needs of the family, as well as 3586
the family's culture, race, and ethnic group, by allowing the 3587
family to offer information and suggestions and participate in 3588
decisions; 3589

(4) Ensures that assistance and services provided meet the 3590
needs of the child and family in the least restrictive 3591
environment; 3592

(5) Includes a service coordination process for dealing with 3593
a child who is alleged to be an unruly child. The service 3594
coordination process shall include methods to divert the child 3595
from the juvenile court system; 3596

(6) Includes timelines for completion of goals specified in 3597
the plan with regular reviews scheduled to monitor progress toward 3598
those goals; 3599

(7) Includes a plan for dealing with short-term crisis 3600

situations and safety concerns. 3601

(E)(1) The service coordination process provided for under 3602
division (D)~~(2)~~(5) of this section may include, but is not limited 3603
to, the following: 3604

~~(a) An assessment of the needs and strengths of the child and 3605
the child's family and the services the child and the child's 3606
family need;~~ 3607

~~(b) Designation of the person or agency to conduct the 3608
assessment of the child and the child's family as described in 3609
division ~~(E)(1)(a)~~(C)(8) of this section and designation of the 3610
instrument or instruments to be used to conduct the assessment;~~ 3611

~~(c) Designation of the agency to provide case management 3612
services to the child and to the child's family;~~ 3613

~~(d)~~(b) An emphasis on the personal responsibilities of the 3614
child and the parental responsibilities of the parents, guardian, 3615
or custodian of the child; 3616

~~(e)~~(c) Involvement of local law enforcement agencies and 3617
officials. 3618

(2) The method to divert a child from the juvenile court 3619
system that must be included in the service coordination process 3620
may include, but is not limited to, the following: 3621

(a) The preparation of a complaint under section 2151.27 of 3622
the Revised Code alleging that the child is an unruly child and 3623
notifying the child and the parents, guardian, or custodian that 3624
the complaint has been prepared to encourage the child and the 3625
parents, guardian, or custodian to comply with other methods to 3626
divert the child from the juvenile court system; 3627

(b) Conducting a meeting with the child, the parents, 3628
guardian, or custodian, and other interested parties to determine 3629
the appropriate methods to divert the child from the juvenile 3630

court system; 3631

~~(c) A method for dealing with short term crisis situations involving a confrontation between the child and the parents, guardian, or custodian;~~ 3632
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~~(d)~~ A method to provide to the child and the child's family a short-term respite from a short-term crisis situation involving a confrontation between the child and the parents, guardian, or custodian; 3635
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~~(e)~~(d) A program to provide a mentor to the child or the parents, guardian, or custodian; 3639
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~~(f)~~(e) A program to provide parenting education to the parents, guardian, or custodian; 3641
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~~(g)~~(f) An alternative school program for children who are truant from school, repeatedly disruptive in school, or suspended or expelled from school; 3643
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~~(h)~~(g) Other appropriate measures, including, but not limited to, any alternative methods to divert a child from the juvenile court system that are identified by the Ohio family and children first cabinet council. 3646
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(F) Each county may review and revise the service coordination process described in division (D)~~(2)~~ of this section based on the availability of funds under Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, or to the extent resources are available from any other federal, state, or local funds. 3650
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Sec. 121.38. (A) An agency represented on a county family and children first council that disagrees with the council's decision concerning the services or funding for services a child is to receive from agencies represented on the council may initiate the local dispute resolution process established in the county service 3656
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coordination mechanism applicable to the council. On completion of 3661
the process, the decision maker designated in the mechanism shall 3662
issue a written determination that directs one or more agencies 3663
represented on the council to provide services or funding for 3664
services to the child. The determination shall include a plan of 3665
care governing the manner in which the services or funding are to 3666
be provided. The decision maker shall base the plan of care on the 3667
comprehensive ~~joint~~ family service coordination plan developed as 3668
part of the county's service coordination mechanism and on 3669
evidence presented during the local dispute resolution process. 3670
The decision maker may require an agency to provide services or 3671
funding only if the child's condition or needs qualify the child 3672
for services under the laws governing the agency. 3673
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(B) An agency subject to a determination issued pursuant to a 3675
local dispute resolution process shall immediately comply with the 3676
determination, unless the agency objects to the determination by 3677
doing one of the following not later than seven days after the 3678
date the written determination is issued: 3679

(1) If the child has been alleged or adjudicated to be an 3680
abused, neglected, dependent, unruly, or delinquent child or a 3681
juvenile traffic offender, filing in the juvenile court of the 3682
county having jurisdiction over the child's case a motion 3683
requesting that the court hold a hearing to determine which 3684
agencies are to provide services or funding for services to the 3685
child. 3686

(2) If the child is not a child described in division (B)(1) 3687
of this section, filing in the juvenile court of the county served 3688
by the county council a complaint objecting to the determination. 3689

The court shall hold a hearing as soon as possible, but not 3690
later than ninety days after the motion or complaint is filed. At 3691
least five days before the date on which the court hearing is to 3692

be held, the court shall send each agency subject to the 3693
determination written notice by first class mail of the date, 3694
time, place, and purpose of the court hearing. In the case of a 3695
motion filed under division (B)(1) of this section, the court may 3696
conduct the hearing as part of the adjudicatory or dispositional 3697
hearing concerning the child, if appropriate, and shall provide 3698
notice as required for those hearings. 3699

Except in cases in which the hearing is conducted as part of 3700
the adjudicatory or dispositional hearing, a hearing held pursuant 3701
to this division shall be limited to a determination of which 3702
agencies are to provide services or funding for services to the 3703
child. At the conclusion of the hearing, the court shall issue an 3704
order directing one or more agencies represented on the county 3705
council to provide services or funding for services to the child. 3706
The order shall include a plan of care governing the manner in 3707
which the services or funding are to be provided. The court shall 3708
base the plan of care on the comprehensive ~~joint~~ family service 3709
coordination plan developed as part of the county's service 3710
coordination plan and on evidence presented during the hearing. An 3711
agency required by the order to provide services or funding shall 3712
be a party to any juvenile court proceeding concerning the child. 3713
The court may require an agency to provide services or funding for 3714
a child only if the child's condition or needs qualify the child 3715
for services under the laws governing the agency. 3716

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

costs of providing the services or funding by the agencies 3725
determined to be responsible for providing them. 3726

Sec. 121.381. A parent or custodian who disagrees with a 3727
decision rendered by a county family and children first council 3728
regarding services for a child may initiate the dispute resolution 3729
process established in the county service coordination mechanism 3730
pursuant to division (C)(10) of section 121.37 of the Revised 3731
Code. 3732

Not later than sixty days after the parent or custodian 3733
initiates the dispute resolution process, the council shall make 3734
findings regarding the dispute and issue a written determination 3735
of its findings. 3736

Sec. 121.382. Each agency represented on a county family and 3737
children first council that is providing services or funding for 3738
services that are the subject of the dispute resolution process 3739
initiated by a parent or custodian under section 121.381 of the 3740
Revised Code shall continue to provide those services and the 3741
funding for those services during the dispute resolution process. 3742

Sec. 121.403. (A) The Ohio community service council may do 3743
any of the following: 3744

(1) Accept monetary gifts or donations; 3745

(2) Sponsor conferences, meetings, or events in furtherance 3746
of the council's purpose described in section 121.40 of the 3747
Revised Code and charge fees for participation or involvement in 3748
the conferences, meetings, or events; 3749

(3) Sell promotional items in furtherance of the council's 3750
purpose described in section 121.40 of the Revised Code. 3751

(B) All monetary gifts and donations, funds from the sale of 3752

promotional items, and any fees paid to the council for 3753
conferences, meetings, or events sponsored by the council shall be 3754
deposited into the Ohio community service council gifts and 3755
donations fund, which is hereby created in the state treasury. 3756
Moneys in the fund may be used only as follows: 3757

(1) To pay operating expenses of the council, including 3758
payroll, personal services, maintenance, equipment, and subsidy 3759
payments; 3760

(2) To support council programs promoting volunteerism and 3761
community service in the state; 3762

(3) As matching funds for federal grants. 3763

Sec. 122.011. (A) The department of development shall develop 3764
and promote plans and programs designed to assure that state 3765
resources are efficiently used, economic growth is properly 3766
balanced, community growth is developed in an orderly manner, and 3767
local governments are coordinated with each other and the state, 3768
and for such purposes may do all of the following: 3769

(1) Serve as a clearinghouse for information, data, and other 3770
materials that may be helpful or necessary to persons or local 3771
governments, as provided in section 122.07 of the Revised Code; 3772

(2) Prepare and activate plans for the retention, 3773
development, expansion, and use of the resources and commerce of 3774
the state, as provided in section 122.04 of the Revised Code; 3775

(3) Assist and cooperate with federal, state, and local 3776
governments and agencies of federal, state, and local governments 3777
in the coordination of programs to carry out the functions and 3778
duties of the department; 3779

(4) Encourage and foster research and development activities, 3780
conduct studies related to the solution of community problems, and 3781
develop recommendations for administrative or legislative actions, 3782

as provided in section 122.03 of the Revised Code; 3783

(5) Serve as the economic and community development planning 3784
agency, which shall prepare and recommend plans and programs for 3785
the orderly growth and development of this state and which shall 3786
provide planning assistance, as provided in section 122.06 of the 3787
Revised Code; 3788

(6) Cooperate with and provide technical assistance to state 3789
departments, political subdivisions, regional and local planning 3790
commissions, tourist associations, councils of government, 3791
community development groups, community action agencies, and other 3792
appropriate organizations for carrying out the functions and 3793
duties of the department or for the solution of community 3794
problems; 3795

(7) Coordinate the activities of state agencies that have an 3796
impact on carrying out the functions and duties of the department; 3797

(8) Encourage and assist the efforts of and cooperate with 3798
local governments to develop mutual and cooperative solutions to 3799
their common problems that relate to carrying out the purposes of 3800
this section; 3801

(9) Study existing structure, operations, and financing of 3802
regional or local government and those state activities that 3803
involve significant relations with regional or local governmental 3804
units, recommend to the governor and to the general assembly such 3805
changes in these provisions and activities as will improve the 3806
operations of regional or local government, and conduct other 3807
studies of legal provisions that affect problems related to 3808
carrying out the purposes of this section; 3809

(10) Create and operate a division of community development 3810
to develop and administer programs and activities that are 3811
authorized by federal statute or the Revised Code; 3812

(11) Until October 15, ~~2005~~ 2007, establish fees and charges, 3813
in consultation with the director of agriculture, for purchasing 3814
loans from financial institutions and providing loan guarantees 3815
under the family farm loan program created under sections 901.80 3816
to 901.83 of the Revised Code; 3817

(12) Provide loan servicing for the loans purchased and loan 3818
guarantees provided under section 901.80 of the Revised Code as 3819
that section existed prior to October 15, ~~2005~~ 2007; 3820

(13) Until October 15, ~~2005~~ 2007, and upon approval by the 3821
controlling board under division (A)(3) of section 901.82 of the 3822
Revised Code of the release of money to be used for purchasing a 3823
loan or providing a loan guarantee, request the release of that 3824
money in accordance with division (B) of section 166.03 of the 3825
Revised Code for use for the purposes of the fund created by 3826
section 166.031 of the Revised Code. 3827

(B) The director of development may request the attorney 3828
general to, and the attorney general, in accordance with section 3829
109.02 of the Revised Code, shall bring a civil action in any 3830
court of competent jurisdiction. The director may be sued in the 3831
director's official capacity, in connection with this chapter, in 3832
accordance with Chapter 2743. of the Revised Code. 3833

Sec. 122.083. (A) The director of development shall 3834
administer a shovel ready sites program to provide grants for 3835
projects to port authorities and development entities approved by 3836
the director. Grants may be used to pay the costs of any or all of 3837
the following: 3838

(1) Acquisition of property, including options; 3839

(2) Preparation of sites, including brownfield clean-up 3840
activities; 3841

(3) Construction of road, water, telecommunication, and 3842

utility infrastructure; 3843

(4) Payment of professional fees the amount of which shall 3844
not exceed twenty per cent of the grant amount for a project. 3845

(B) The director shall adopt rules in accordance with Chapter 3846
119. of the Revised Code that establish procedures and 3847
requirements necessary for the administration of the program, 3848
including a requirement that a recipient of a grant enter into an 3849
agreement with the director governing the use of the grant. 3850

(C) There is hereby created in the state treasury the shovel 3851
ready sites fund consisting of money appropriated to it. Money in 3852
the fund shall be used solely for the purposes of this section. 3853

Sec. 122.17. (A) As used in this section: 3854

(1) "Full-time employee" means an individual who is employed 3855
for consideration for at least thirty-five hours a week, or who 3856
renders any other standard of service generally accepted by custom 3857
or specified by contract as full-time employment. 3858

(2) "New employee" means one of the following: 3859

(a) A full-time employee first employed by a taxpayer in the 3860
project that is the subject of the agreement after the taxpayer 3861
enters into a tax credit agreement with the tax credit authority 3862
under this section; 3863

(b) A full-time employee first employed by a taxpayer in the 3864
project that is the subject of the tax credit after the tax credit 3865
authority approves a project for a tax credit under this section 3866
in a public meeting, as long as the taxpayer enters into the tax 3867
credit agreement prepared by the department of development after 3868
such meeting within sixty days after receiving the agreement from 3869
the department. If the taxpayer fails to enter into the agreement 3870
within sixty days, "new employee" has the same meaning as under 3871
division (A)(2)(a) of this section. 3872

Under division (A)(2)(a) or (b) of this section, if the tax 3873
credit authority determines it appropriate, "new employee" also 3874
may include an employee re-hired or called back from lay-off to 3875
work in a new facility or on a new product or service established 3876
or produced by the taxpayer after entering into the agreement 3877
under this section or after the tax credit authority approves the 3878
tax credit in a public meeting. Except as otherwise provided in 3879
this paragraph, "new employee" does not include any employee of 3880
the taxpayer who was previously employed in this state by a 3881
related member of the taxpayer and whose employment was shifted to 3882
the taxpayer after the taxpayer entered into the tax credit 3883
agreement or after the tax credit authority approved the credit in 3884
a public meeting, or any employee of the taxpayer for which the 3885
taxpayer has been granted a certificate under division (B) of 3886
section 5709.66 of the Revised Code. However, if the taxpayer is 3887
engaged in the enrichment and commercialization of uranium or 3888
uranium products or is engaged in research and development 3889
activities related thereto and if the tax credit authority 3890
determines it appropriate, "new employee" may include an employee 3891
of the taxpayer who was previously employed in this state by a 3892
related member of the taxpayer and whose employment was shifted to 3893
the taxpayer after the taxpayer entered into the tax credit 3894
agreement or after the tax credit authority approved the credit in 3895
a public meeting. "New employee" does not include an employee of 3896
the taxpayer who is employed in an employment position that was 3897
relocated to a project from other operations of the taxpayer in 3898
this state or from operations of a related member of the taxpayer 3899
in this state. In addition, "new employee" does not include a 3900
child, grandchild, parent, or spouse, other than a spouse who is 3901
legally separated from the individual, of any individual who is an 3902
employee of the taxpayer and who has a direct or indirect 3903
ownership interest of at least five per cent in the profits, 3904
capital, or value of the taxpayer. Such ownership interest shall 3905

be determined in accordance with section 1563 of the Internal Revenue Code and regulations prescribed thereunder. 3906
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(3) "New income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the taxpayer during the taxable year, or during the calendar year that includes the tax period, from the compensation of new employees for the tax levied under Chapter 5747. of the Revised Code. 3908
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(4) "Related member" has the same meaning as under division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section. 3913
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(B) The tax credit authority may make grants under this section to foster job creation in this state. Such a grant shall take the form of a refundable credit allowed against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for taxable years ending prior to 2008 and against the tax levied by Chapter 5751. of the Revised Code for tax periods beginning on or after July 1, 2008. The credit shall be claimed for the taxable years or tax periods specified in the taxpayer's agreement with the tax credit authority under division (D) of this section. The credit shall be claimed ~~after the allowance of all other credits provided by Chapter 5733. or 5747. in the order required under section 5733.98, 5747.98, or 5751.98~~ of the Revised Code. The amount of the credit available for a taxable year or for a calendar year that includes a tax period equals the new income tax revenue for ~~the taxable~~ that year multiplied by the percentage specified in the agreement with the tax credit authority. 3916
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(C) A taxpayer or potential taxpayer who proposes a project to create new jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of development shall prescribe the form of the application. After receipt of an application, the authority 3932
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may enter into an agreement with the taxpayer for a credit under 3937
this section if it determines all of the following: 3938

(1) The taxpayer's project will create new jobs in this 3939
state; 3940

(2) The taxpayer's project is economically sound and will 3941
benefit the people of this state by increasing opportunities for 3942
employment and strengthening the economy of this state; 3943

(3) Receiving the tax credit is a major factor in the 3944
taxpayer's decision to go forward with the project. 3945

(D) An agreement under this section shall include all of the 3946
following: 3947

(1) A detailed description of the project that is the subject 3948
of the agreement; 3949

(2) The term of the tax credit, which shall not exceed 3950
fifteen years, and the first taxable year, or first calendar year 3951
that includes a tax period, for which the credit may be claimed; 3952

(3) A requirement that the taxpayer shall maintain operations 3953
at the project location for at least twice the number of years as 3954
the term of the tax credit; 3955

(4) The percentage, as determined by the tax credit 3956
authority, of new income tax revenue that will be allowed as the 3957
amount of the credit for each taxable year or for each calendar 3958
year that includes a tax period; 3959

(5) A specific method for determining how many new employees 3960
are employed during a taxable year or during a calendar year that 3961
includes a tax period; 3962

(6) A requirement that the taxpayer annually shall report to 3963
the director of development the number of new employees, the new 3964
income tax revenue withheld in connection with the new employees, 3965
and any other information the director needs to perform the 3966

director's duties under this section; 3967

(7) A requirement that the director of development annually 3968
shall verify the amounts reported under division (D)(6) of this 3969
section, and after doing so shall issue a certificate to the 3970
taxpayer stating that the amounts have been verified; 3971

(8)(a) A provision requiring that the taxpayer, except as 3972
otherwise provided in division (D)(8)(b) of this section, shall 3973
not relocate employment positions from elsewhere in this state to 3974
the project site that is the subject of the agreement for the 3975
lesser of five years from the date the agreement is entered into 3976
or the number of years the taxpayer is entitled to claim the tax 3977
credit. 3978

(b) The taxpayer may relocate employment positions from 3979
elsewhere in this state to the project site that is the subject of 3980
the agreement if the director of development determines both of 3981
the following: 3982

(i) That the site from which the employment positions would 3983
be relocated is inadequate to meet market and industry conditions, 3984
expansion plans, consolidation plans, or other business 3985
considerations affecting the taxpayer; 3986

(ii) That the legislative authority of the county, township, 3987
or municipal corporation from which the employment positions would 3988
be relocated has been notified of the relocation. 3989

For purposes of this section, the movement of an employment 3990
position from one political subdivision to another political 3991
subdivision shall be considered a relocation of an employment 3992
position, but the transfer of an individual employee from one 3993
political subdivision to another political subdivision shall not 3994
be considered a relocation of an employment position as long as 3995
the individual's employment position in the first political 3996
subdivision is refilled. 3997

(E) If a taxpayer fails to meet or comply with any condition 3998
or requirement set forth in a tax credit agreement, the tax credit 3999
authority may amend the agreement to reduce the percentage or term 4000
of the tax credit. The reduction of the percentage or term shall 4001
take effect in the taxable year immediately following the taxable 4002
year in which the authority amends the agreement or in the first 4003
tax period beginning in the calendar year immediately following 4004
the calendar year in which the authority amends the agreement. If 4005
the taxpayer relocates employment positions in violation of the 4006
provision required under division (D)(8)(a) of this section, the 4007
taxpayer shall not claim the tax credit under section 5733.0610 of 4008
the Revised Code for any tax years following the calendar year in 4009
which the relocation occurs, or shall not claim the tax credit 4010
under section 5747.058 of the Revised Code for the taxable year in 4011
which the relocation occurs and any subsequent taxable years, and 4012
shall not claim the tax credit under division (A) of section 4013
5751.50 of the Revised Code for any tax period in the calendar 4014
year in which the relocation occurs and any subsequent tax 4015
periods. 4016

(F) Projects that consist solely of point-of-final-purchase 4017
retail facilities are not eligible for a tax credit under this 4018
section. If a project consists of both point-of-final-purchase 4019
retail facilities and nonretail facilities, only the portion of 4020
the project consisting of the nonretail facilities is eligible for 4021
a tax credit and only the new income tax revenue from new 4022
employees of the nonretail facilities shall be considered when 4023
computing the amount of the tax credit. If a warehouse facility is 4024
part of a point-of-final-purchase retail facility and supplies 4025
only that facility, the warehouse facility is not eligible for a 4026
tax credit. Catalog distribution centers are not considered 4027
point-of-final-purchase retail facilities for the purposes of this 4028
division, and are eligible for tax credits under this section. 4029

(G) Financial statements and other information submitted to 4030
the department of development or the tax credit authority by an 4031
applicant or recipient of a tax credit under this section, and any 4032
information taken for any purpose from such statements or 4033
information, are not public records subject to section 149.43 of 4034
the Revised Code. However, the chairperson of the authority may 4035
make use of the statements and other information for purposes of 4036
issuing public reports or in connection with court proceedings 4037
concerning tax credit agreements under this section. Upon the 4038
request of the tax commissioner, the chairperson of the authority 4039
shall provide to the commissioner any statement or information 4040
submitted by an applicant or recipient of a tax credit in 4041
connection with the credit. The commissioner shall preserve the 4042
confidentiality of the statement or information. 4043

(H) A taxpayer claiming a credit under this section shall 4044
submit to the tax commissioner a copy of the director of 4045
development's certificate of verification under division (D)(7) of 4046
this section for the taxable year or for the calendar year that 4047
includes the tax period. However, failure to submit a copy of the 4048
certificate does not invalidate a claim for a credit. 4049

(I) The director of development, after consultation with the 4050
tax commissioner and in accordance with Chapter 119. of the 4051
Revised Code, shall adopt rules necessary to implement this 4052
section. The rules may provide for recipients of tax credits under 4053
this section to be charged fees to cover administrative costs of 4054
the tax credit program. At the time the director gives public 4055
notice under division (A) of section 119.03 of the Revised Code of 4056
the adoption of the rules, the director shall submit copies of the 4057
proposed rules to the chairpersons of the standing committees on 4058
economic development in the senate and the house of 4059
representatives. 4060

(J) For the purposes of this section, a taxpayer may include 4061

a partnership, a corporation that has made an election under 4062
subchapter S of chapter one of subtitle A of the Internal Revenue 4063
Code, or any other business entity through which income flows as a 4064
distributive share to its owners. A credit received under this 4065
section by a partnership, S-corporation, or other such business 4066
entity shall be apportioned among the persons to whom the income 4067
or profit of the partnership, S-corporation, or other entity is 4068
distributed, in the same proportions as those in which the income 4069
or profit is distributed. 4070

(K) If the director of development determines that a taxpayer 4071
who has received a credit under this section is not complying with 4072
the requirement under division (D)(3) of this section, the 4073
director shall notify the tax credit authority of the 4074
noncompliance. After receiving such a notice, and after giving the 4075
taxpayer an opportunity to explain the noncompliance, the tax 4076
credit authority may require the taxpayer to refund to this state 4077
a portion of the credit in accordance with the following: 4078

(1) If the taxpayer maintained operations at the project 4079
location for at least one and one-half times the number of years 4080
of the term of the tax credit, an amount not exceeding twenty-five 4081
per cent of the sum of any previously allowed credits under this 4082
section; 4083

(2) If the taxpayer maintained operations at the project 4084
location for at least the number of years of the term of the tax 4085
credit, an amount not exceeding fifty per cent of the sum of any 4086
previously allowed credits under this section; 4087

(3) If the taxpayer maintained operations at the project 4088
location for less than the number of years of the term of the tax 4089
credit, an amount not exceeding one hundred per cent of the sum of 4090
any previously allowed credits under this section. 4091

In determining the portion of the tax credit to be refunded 4092

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

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

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

(M) There is hereby created the tax credit authority, which

consists of the director of development and four other members 4125
appointed as follows: the governor, the president of the senate, 4126
and the speaker of the house of representatives each shall appoint 4127
one member who shall be a specialist in economic development; the 4128
governor also shall appoint a member who is a specialist in 4129
taxation. Of the initial appointees, the members appointed by the 4130
governor shall serve a term of two years; the members appointed by 4131
the president of the senate and the speaker of the house of 4132
representatives shall serve a term of four years. Thereafter, 4133
terms of office shall be for four years. Initial appointments to 4134
the authority shall be made within thirty days after January 13, 4135
1993. Each member shall serve on the authority until the end of 4136
the term for which the member was appointed. Vacancies shall be 4137
filled in the same manner provided for original appointments. Any 4138
member appointed to fill a vacancy occurring prior to the 4139
expiration of the term for which the member's predecessor was 4140
appointed shall hold office for the remainder of that term. 4141
Members may be reappointed to the authority. Members of the 4142
authority shall receive their necessary and actual expenses while 4143
engaged in the business of the authority. The director of 4144
development shall serve as chairperson of the authority, and the 4145
members annually shall elect a vice-chairperson from among 4146
themselves. Three members of the authority constitute a quorum to 4147
transact and vote on the business of the authority. The majority 4148
vote of the membership of the authority is necessary to approve 4149
any such business, including the election of the vice-chairperson. 4150

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

and the director's substitute from a meeting, the vice-chairperson 4157
shall serve as chairperson. 4158

Sec. 122.171. (A) As used in this section: 4159

(1) "Capital investment project" means a plan of investment 4160
at a project site for the acquisition, construction, renovation, 4161
or repair of buildings, machinery, or equipment, or for 4162
capitalized costs of basic research and new product development 4163
determined in accordance with generally accepted accounting 4164
principles, but does not include any of the following: 4165

(a) Payments made for the acquisition of personal property 4166
through operating leases; 4167

(b) Project costs paid before January 1, 2002, ~~or after~~ 4168
~~December 31, 2006;~~ 4169

(c) Payments made to a related member as defined in section 4170
5733.042 of the Revised Code or to an elected consolidated 4171
taxpayer or a combined taxpayer as defined in section 5751.01 of 4172
the Revised Code. 4173

(2) "Eligible business" means a business with Ohio operations 4174
satisfying all of the following: 4175

(a) Employed an average of at least one thousand employees in 4176
full-time employment positions at a project site during each of 4177
the twelve months preceding the application for a tax credit under 4178
this section; and 4179

(b) On or after January 1, 2002, has made payments for the 4180
capital investment project of either of the following: 4181

(i) At least two hundred million dollars in the aggregate at 4182
the project site during a period of three consecutive calendar 4183
years including the calendar year that includes a day of the 4184
taxpayer's taxable year or tax period with respect to which the 4185

credit is granted;	4186
(ii) If the average wage of all full-time employment positions at the project site is greater than four hundred per cent of the federal minimum wage, at least one hundred million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year <u>or tax period</u> with respect to which the credit is granted.	4187 4188 4189 4190 4191 4192 4193
(c) Is engaged at the project site primarily as a manufacturer or is providing significant corporate administrative functions;	4194 4195 4196
(d) Has had a capital investment project reviewed and approved by the tax credit authority as provided in divisions (C), (D), and (E) of this section.	4197 4198 4199
(3) "Full-time employment position" means a position of employment for consideration for at least thirty-five hours a week that has been filled for at least one hundred eighty days immediately preceding the filing of an application under this section and for at least one hundred eighty days during each taxable year <u>or each calendar year that includes a tax period</u> with respect to which the credit is granted.	4200 4201 4202 4203 4204 4205 4206
(4) "Manufacturer" has the same meaning as in section 5739.011 of the Revised Code.	4207 4208
(5) "Project site" means an integrated complex of facilities in this state, as specified by the tax credit authority under this section, within a fifteen-mile radius where a taxpayer is primarily operating as an eligible business.	4209 4210 4211 4212
(6) "Applicable corporation" means a corporation satisfying all of the following:	4213 4214
(a)(i) For the entire taxable year immediately preceding the	4215

tax year, the corporation develops software applications primarily 4216
to provide telecommunication billing and information services 4217
through outsourcing or licensing to domestic or international 4218
customers. 4219

(ii) Sales and licensing of software generated at least six 4220
hundred million dollars in revenue during the taxable year 4221
immediately preceding the tax year the corporation is first 4222
entitled to claim the credit provided under division (B) of this 4223
section. 4224

(b) For the entire taxable year immediately preceding the tax 4225
year, the corporation or one or more of its related members 4226
provides customer or employee care and technical support for 4227
clients through one or more contact centers within this state, and 4228
the corporation and its related members together have a daily 4229
average, based on a ~~three hundred sixty five day~~ 4230
three-hundred-sixty-five-day year, of at least five hundred 4231
thousand successful customer contacts through one or more of their 4232
contact centers, wherever located. 4233

(c) The corporation is eligible for the credit under division 4234
(B) of this section for the tax year. 4235

(7) "Related member" has the same meaning as in section 4236
5733.042 of the Revised Code as that section existed on the 4237
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 4238
general assembly, September 29, 1997. 4239

(8) "Successful customer contact" means a contact with an end 4240
user via telephone, including interactive voice recognition or 4241
similar means, where the contact culminates in a conversation or 4242
connection other than a busy signal or equipment busy. 4243

(9) "Telecommunications" means all forms of 4244
telecommunications service as defined in section 5739.01 of the 4245
Revised Code, and includes services in wireless, wireline, cable, 4246

broadband, internet protocol, and satellite. 4247

(10)(a) "Applicable difference" means the difference between 4248
the tax for the tax year under Chapter 5733. of the Revised Code 4249
applying the law in effect for that tax year, and the tax for that 4250
tax year if section 5733.042 of the Revised Code applied as that 4251
section existed on the effective date of its amendment by Am. Sub. 4252
H.B. 215 of the 122nd general assembly, September 29, 1997, 4253
subject to division (A)(10)(b) of this section. 4254

(b) If the tax rate set forth in division (B) of section 4255
5733.06 of the Revised Code for the tax year is less than eight 4256
and one-half per cent, the tax calculated under division 4257
(A)(10)(a) of this section shall be computed by substituting a tax 4258
rate of eight and one-half per cent for the rate set forth in 4259
division (B) of section 5733.06 of the Revised Code for the tax 4260
year. 4261

(c) If the resulting difference is negative, the applicable 4262
tax difference for the tax year shall be zero. 4263

(B) The tax credit authority created under section 122.17 of 4264
the Revised Code may grant tax credits under this section for the 4265
purpose of fostering job retention in this state. Upon application 4266
by an eligible business and upon consideration of the 4267
recommendation of the director of budget and management, tax 4268
commissioner, and director of development under division (C) of 4269
this section, the tax credit authority may grant to an eligible 4270
business a nonrefundable credit against the tax imposed by section 4271
5733.06 or 5747.02 of the Revised Code for taxable years ending 4272
before 2008 for a period up to fifteen taxable years and against 4273
the tax levied by Chapter 5751. of the Revised Code for tax 4274
periods beginning on or after July 1, 2008, for a period of up to 4275
fifteen calendar years. The credit shall be in an amount not 4276
exceeding seventy-five per cent of the Ohio income tax withheld 4277

from the employees of the eligible business occupying full-time 4278
employment positions at the project site during the calendar year 4279
that includes the last day of such business' taxable year or tax 4280
period with respect to which the credit is granted. The amount of 4281
the credit shall not be based on the Ohio income tax withheld from 4282
full-time employees for a calendar year prior to the calendar year 4283
in which the minimum investment requirement referred to in 4284
division (A)(2)(b) of this section is completed. The credit shall 4285
be claimed only for the taxable years or tax periods specified in 4286
the eligible business' agreement with the tax credit authority 4287
under division (E) of this section, but in no event shall the 4288
credit be claimed for a taxable year or tax period terminating 4289
before the date specified in the agreement. 4290

The credit computed under this division is in addition to any 4291
credit allowed under division (M) of this section which the tax 4292
credit authority may also include in the agreement. 4293

Any unused portion of a tax credit may be carried forward for 4294
not more than three additional years after the year for which the 4295
credit is granted. 4296

(C) A taxpayer that proposes a capital investment project to 4297
retain jobs in this state may apply to the tax credit authority to 4298
enter into an agreement for a tax credit under this section. The 4299
director of development shall prescribe the form of the 4300
application. After receipt of an application, the authority shall 4301
forward copies of the application to the director of budget and 4302
management, the tax commissioner, and the director of development, 4303
each of whom shall review the application to determine the 4304
economic impact the proposed project would have on the state and 4305
the affected political subdivisions and shall submit a summary of 4306
their determinations and recommendations to the authority. ~~The~~ 4307
~~authority shall make no agreements under this section after June~~ 4308
~~30, 2007.~~ 4309

(D) Upon review of the determinations and recommendations 4310
described in division (C) of this section, the tax credit 4311
authority may enter into an agreement with the taxpayer for a 4312
credit under this section if the authority determines all of the 4313
following: 4314

(1) The taxpayer's capital investment project will result in 4315
the retention of full-time employment positions in this state. 4316

(2) The taxpayer is economically sound and has the ability to 4317
complete the proposed capital investment project. 4318

(3) The taxpayer intends to and has the ability to maintain 4319
operations at the project site for at least twice the term of the 4320
credit. 4321

(4) Receiving the credit is a major factor in the taxpayer's 4322
decision to begin, continue with, or complete the project. 4323

(5) The political subdivisions in which the project is 4324
located have agreed to provide substantial financial support to 4325
the project. 4326

(E) An agreement under this section shall include all of the 4327
following: 4328

(1) A detailed description of the project that is the subject 4329
of the agreement, including the amount of the investment, the 4330
period over which the investment has been or is being made, and 4331
the number of full-time employment positions at the project site. 4332

(2) The method of calculating the number of full-time 4333
employment positions as specified in division (A)(3) of this 4334
section. 4335

(3) The term and percentage of the tax credit, and the first 4336
year for which the credit may be claimed. 4337

(4) A requirement that the taxpayer maintain operations at 4338
the project site for at least twice the number of years as the 4339

term of the credit.

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

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(6) A requirement that the taxpayer annually report to the
director of development the number of full-time employment
positions subject to the credit, the amount of tax withheld from
employees in those positions, the amount of the payments made for
the capital investment project, and any other information the
director needs to perform the director's duties under this
section.

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(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.

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(8)(a) A provision requiring that the taxpayer, except as 4372
otherwise provided in division (E)(8)(b) of this section, shall 4373
not relocate employment positions from elsewhere in this state to 4374
the project site that is the subject of the agreement for the 4375
lesser of five years from the date the agreement is entered into 4376
or the number of years the taxpayer is entitled to claim the 4377
credit. 4378

(b) The taxpayer may relocate employment positions from 4379
elsewhere in this state to the project site that is the subject of 4380
the agreement if the director of development determines both of 4381
the following: 4382

(i) That the site from which the employment positions would 4383
be relocated is inadequate to meet market and industry conditions, 4384
expansion plans, consolidation plans, or other business 4385
considerations affecting the taxpayer; 4386

(ii) That the legislative authority of the county, township, 4387
or municipal corporation from which the employment positions would 4388
be relocated has been notified of the relocation. 4389

For purposes of this section, the movement of an employment 4390
position from one political subdivision to another political 4391
subdivision shall be considered a relocation of an employment 4392
position unless the movement is confined to the project site. The 4393
transfer of an individual employee from one political subdivision 4394
to another political subdivision shall not be considered a 4395
relocation of an employment position as long as the individual's 4396
employment position in the first political subdivision is 4397
refilled. 4398

(9) A waiver by the taxpayer of any limitations periods 4399
relating to assessments or adjustments resulting from the 4400
taxpayer's failure to comply with the agreement. 4401

(F) If a taxpayer fails to meet or comply with any condition 4402

or requirement set forth in a tax credit agreement, the tax credit
authority may amend the agreement to reduce the percentage or term
of the credit. The reduction of the percentage or term shall take
effect in the taxable year immediately following the taxable year
in which the authority amends the agreement or in the first tax
period beginning in the calendar year immediately following the
calendar year in which the authority amends the agreement. If the
taxpayer relocates employment positions in violation of the
provision required under division (D)(8)(a) of this section, the
taxpayer shall not claim the tax credit under section 5733.0610 of
the Revised Code for any tax years following the calendar year in
which the relocation occurs, ~~or~~ shall not claim the tax credit
under section 5747.058 of the Revised Code for the taxable year in
which the relocation occurs and any subsequent taxable years, and
shall not claim the tax credit under division (A) of section
5751.50 of the Revised Code for the tax period in which the
relocation occurs and any subsequent tax periods.

(G) Financial statements and other information submitted to
the department of development or the tax credit authority by an
applicant for or recipient of a tax credit under this section, and
any information taken for any purpose from such statements or
information, are not public records subject to section 149.43 of
the Revised Code. However, the chairperson of the authority may
make use of the statements and other information for purposes of
issuing public reports or in connection with court proceedings
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 other
information submitted by an applicant for or recipient of a tax
credit in connection with the credit. The commissioner shall
preserve the confidentiality of the statement or other
information.

(H) A taxpayer claiming a tax credit under this section shall 4435
submit to the tax commissioner a copy of the director of 4436
development's certificate of verification under division (E)(7) of 4437
this section for the taxable year or for the calendar year that 4438
includes the tax period. However, failure to submit a copy of the 4439
certificate does not invalidate a claim for a credit. 4440

(I) For the purposes of this section, a taxpayer may include 4441
a partnership, a corporation that has made an election under 4442
subchapter S of chapter one of subtitle A of the Internal Revenue 4443
Code, or any other business entity through which income flows as a 4444
distributive share to its owners. A tax credit received under this 4445
section by a partnership, S-corporation, or other such business 4446
entity shall be apportioned among the persons to whom the income 4447
or profit of the partnership, S-corporation, or other entity is 4448
distributed, in the same proportions as those in which the income 4449
or profit is distributed. 4450

(J) If the director of development determines that a taxpayer 4451
that received a tax credit under this section is not complying 4452
with the requirement under division (E)(4) of this section, the 4453
director shall notify the tax credit authority of the 4454
noncompliance. After receiving such a notice, and after giving the 4455
taxpayer an opportunity to explain the noncompliance, the 4456
authority may terminate the agreement and require the taxpayer to 4457
refund to the state all or a portion of the credit claimed in 4458
previous years, as follows: 4459

(1) If the taxpayer maintained operations at the project site 4460
for less than the term of the credit, the amount required to be 4461
refunded shall not exceed the amount of any tax credits previously 4462
allowed and received under this section. 4463

(2) If the taxpayer maintained operations at the project site 4464
longer than the term of the credit but less than one and one-half 4465

times the term of the credit, the amount required to be refunded 4466
shall not exceed fifty per cent of the sum of any tax credits 4467
previously allowed and received under this section. 4468

(3) If the taxpayer maintained operations at the project site 4469
for at least one and one-half times the term of the credit but 4470
less than twice the term of the credit, the amount required to be 4471
refunded shall not exceed twenty-five per cent of the sum of any 4472
tax credits previously allowed and received under this section. 4473

In determining the portion of the credit to be refunded to 4474
this state, the authority shall consider the effect of market 4475
conditions on the taxpayer's project and whether the taxpayer 4476
continues to maintain other operations in this state. After making 4477
the determination, the authority shall certify the amount to be 4478
refunded to the tax commissioner. The commissioner shall make an 4479
assessment for that amount against the taxpayer under Chapter 4480
5733. ~~or, 5747., or 5751.~~ of the Revised Code. The time 4481
limitations on assessments under ~~Chapter 5733. or 5747. of the~~ 4482
~~Revised Code~~ those chapters do not apply to an assessment under 4483
this division, but the commissioner shall make the assessment 4484
within one year after the date the authority certifies to the 4485
commissioner the amount to be refunded. 4486

If the director of development determines that a taxpayer 4487
that received a tax credit under this section has reduced the 4488
number of employees agreed to under division (E)(5) of this 4489
section by more than ten per cent, the director shall notify the 4490
tax credit authority of the noncompliance. After receiving such 4491
notice, and after providing the taxpayer an opportunity to explain 4492
the noncompliance, the authority may amend the agreement to reduce 4493
the percentage or term of the tax credit. The reduction in the 4494
percentage or term shall take effect in the taxable year, or in 4495
the calendar year that includes the tax period, in which the 4496
authority amends the agreement. 4497

(K) 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.

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

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

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

(A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled 4530
to the credit allowed under division (M) of this section for any 4531
tax year for which the person is not eligible for the credit 4532
provided under division (B) of this section. 4533

Sec. 122.603. (A)(1) Upon approval by the director of 4534
development and after entering into a participation agreement with 4535
the department of development, a participating financial 4536
institution making a capital access loan shall establish a program 4537
reserve account. The account shall be an interest-bearing account 4538
and shall contain only moneys deposited into it under the program 4539
and the interest payable on the moneys in the account. 4540

(2) All interest payable on the moneys in the program reserve 4541
account shall be added to the moneys and held as an additional 4542
loss reserve. The director may require that a portion or all of 4543
the accrued interest so held in the account be released to the 4544
department. If the director causes a release of accrued interest, 4545
the director shall deposit the released amount into the capital 4546
access loan program fund created in section 122.601 of the Revised 4547
Code. The director shall not require the release of that accrued 4548
interest more than twice in a fiscal year. 4549

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

under this division in any manner agreed to by the participating 4561
financial institution and the eligible business. 4562

(C) For each capital access loan made by a participating 4563
financial institution, the participating financial institution 4564
shall certify to the director, within a period specified by the 4565
director, that the participating financial institution has made 4566
the loan. The certification shall include the amount of the loan, 4567
the amount of the fee received from the eligible business, the 4568
amount of its own funds that the participating financial 4569
institution deposited into its program reserve account to reflect 4570
that fee, and any other information specified by the director. 4571

(D) ~~On~~ Upon receipt of each of the first three certifications 4572
from a participating financial institution made under division (C) 4573
of this section and subject to section 122.602 of the Revised 4574
Code, the director shall disburse to the participating financial 4575
institution from the capital access loan program fund an amount 4576
equal to fifty per cent of the principal amount of the particular 4577
capital access loan for deposit into the participating financial 4578
institution's program reserve account. Thereafter, upon receipt of 4579
a certification from that participating financial institution made 4580
under division (C) of this section and subject to section 122.602 4581
of the Revised Code, the director shall disburse to the 4582
participating financial institution from the capital access loan 4583
program fund an amount equal to ten per cent of the principal 4584
amount of the particular capital access loan for deposit into the 4585
participating financial institution's program reserve account. The 4586
disbursement of moneys from the fund to a participating financial 4587
institution does not require approval from the controlling board. 4588

(E) If the amount in a program reserve account exceeds an 4589
amount equal to thirty-three per cent of a participating financial 4590
institution's outstanding capital access loans, the department may 4591
cause the withdrawal of the excess amount and the deposit of the 4592

withdrawn amount into the capital access loan program fund. 4593

(F)(1) The department may cause the withdrawal of the total 4594
amount in a participating financial institution's program reserve 4595
account if any of the following applies: 4596

(a) The financial institution is no longer eligible to 4597
participate in the program. 4598

(b) The participation agreement expires without renewal by 4599
the department or the financial institution. 4600

(c) The financial institution has no outstanding capital 4601
access loans. 4602

(d) The financial institution has not made a capital access 4603
loan within the preceding twenty-four months. 4604

(2) If the department causes a withdrawal under division 4605
(F)(1) of this section, the department shall deposit the withdrawn 4606
amount into the capital access loan program fund. 4607

Sec. 122.71. As used in sections 122.71 to 122.83 of the 4608
Revised Code: 4609

(A) "Financial institution" means any banking corporation, 4610
trust company, insurance company, savings and loan association, 4611
building and loan association, or corporation, partnership, 4612
federal lending agency, foundation, or other institution engaged 4613
in lending or investing funds for industrial or business purposes. 4614

(B) "Project" means any real or personal property connected 4615
with or being a part of an industrial, distribution, commercial, 4616
or research facility to be acquired, constructed, reconstructed, 4617
enlarged, improved, furnished, or equipped, or any combination 4618
thereof, with the aid provided under sections 122.71 to 122.83 of 4619
the Revised Code, for industrial, commercial, distribution, and 4620
research development of the state. 4621

(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.

(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 under the mortgage.

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

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

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

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

(H) "Minority contractors business assistance organization" 4653
means an entity engaged in the provision of management and 4654
technical business assistance to minority business enterprise 4655
entrepreneurs. 4656

(I) "Minority business supplier development council" means a 4657
nonprofit organization established as an affiliate of the national 4658
minority supplier development council. 4659

(J) "Regional economic development entity" means an entity 4660
that is under contract with the director of development to 4661
administer a loan program under this chapter in a particular area 4662
of the state. 4663

Sec. 122.72. (A) There is hereby created the minority 4664
development financing advisory board to assist in carrying out the 4665
programs created pursuant to sections 122.71 to ~~122.89~~ 122.90 of 4666
the Revised Code. 4667

(B) The board shall consist of ~~seven~~ ten members. The 4668
director of development or the director's designee shall be a 4669
voting member on the board. Seven members shall be appointed by 4670
the governor with the advice and consent of the senate and 4671
selected because of their knowledge of and experience in 4672
industrial, business, and commercial financing, suretyship, 4673
construction, and their understanding of the problems of minority 4674
business enterprises; one member also shall be a member of the 4675
senate and appointed by the president of the senate, and one 4676
member also shall be a member of the house of representatives and 4677
appointed by the speaker of the house of representatives. With 4678
respect to the board, all of the following apply: 4679

(1) Not more than four of the members of the board appointed 4680
by the governor shall be of the same political party. 4681

(2) Each member shall hold office from the date of the 4682

member's appointment until the end of the term for which the 4683
member was appointed. 4684

(3) The terms of office for the seven members appointed by 4685
the governor shall be for seven years, commencing on the first day 4686
of October and ending on the thirtieth day of September of the 4687
seventh year, except that of the original seven members, three 4688
shall be appointed for three years and two shall be appointed for 4689
five years. 4690

(4) Any member of the board is eligible for reappointment. 4691

(5) Any member appointed to fill a vacancy occurring prior to 4692
the expiration of the term for which ~~his~~ the member's predecessor 4693
was appointed shall hold office for the remainder of ~~his~~ the 4694
predecessor's term. 4695

(6) Any member shall continue in office subsequent to the 4696
expiration date of ~~his~~ the member's term until ~~his~~ the member's 4697
successor takes office, or until a period of sixty days has 4698
elapsed, whichever occurs first. 4699

(7) Before entering upon ~~his~~ official duties as a member of 4700
the board, each member shall take an oath as provided by Section 7 4701
of Article XV, Ohio Constitution. 4702

(8) The governor may, at any time, remove any member 4703
appointed by ~~him~~ the governor pursuant to section 3.04 of the 4704
Revised Code. 4705

(9) Notwithstanding section 101.26 of the Revised Code, 4706
members shall receive their necessary and actual expenses while 4707
engaged in the business of the board and shall be paid at the per 4708
diem rate of step 1 of pay range 31 of section 124.15 of the 4709
Revised Code. 4710

(10) ~~Five~~ Four members of the board constitute a quorum and 4711
the affirmative vote of ~~five members~~ a majority of the quorum is 4712

necessary for any action taken by the board. 4713

(11) In the event of the absence of a member appointed by the 4714
president of the senate or by the speaker of the house of 4715
representatives, either of the following persons may serve in the 4716
member's absence: 4717

(a) The president of the senate or the speaker of the house 4718
of representatives, whoever appointed the absent member; 4719

(b) A member of the senate or of the house of representatives 4720
of the same political party as the absent member, as designated by 4721
the president of the senate or the speaker of the house of 4722
representatives, whoever appointed the absent member. 4723

(12) The board shall annually elect one of its members as 4724
~~chairman~~ chairperson and another as ~~vice-chairman~~ 4725
vice-chairperson. 4726

Sec. 122.73. (A) The minority development financing advisory 4727
board and the director of development are invested with the powers 4728
and duties provided in sections 122.71 to ~~122.89~~ 122.90 of the 4729
Revised Code, in order to promote the welfare of the people of the 4730
state by encouraging the establishment and expansion of minority 4731
business enterprises_{7i} to stabilize the economy_{7i} to provide 4732
employment_{7i} to assist in the development within the state of 4733
industrial, commercial, distribution, and research activities 4734
required for the people of the state, and for their gainful 4735
employment_{7i} or otherwise to create or preserve jobs and 4736
employment opportunities, or improve the economic welfare of the 4737
people of the state. It is hereby determined that the 4738
accomplishment of those purposes is essential so that the people 4739
of the state may maintain their present high standards of living 4740
in comparison with the people of other states and so that 4741
opportunities for employment and for favorable markets for the 4742
products of the state's natural resources, agriculture, and 4743

manufacturing shall be improved ~~and~~. It further is determined that 4744
it is necessary for the state to establish the programs authorized 4745
under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code to 4746
establish the minority development financing advisory board, and 4747
to invest it and the director of development with the powers and 4748
duties provided in sections 122.71 to ~~122.89~~ 122.90 of the Revised 4749
Code. 4750

(B) The minority development financing advisory board shall 4751
do all of the following: 4752

(1) Make recommendations to the director as to applications 4753
for assistance pursuant to sections 122.71 to ~~122.89~~ 122.90 of the 4754
Revised Code. The board may revise its recommendations to reflect 4755
any changes in the proposed assistance made by the director. 4756

(2) Advise the director in the administration of sections 4757
122.71 to ~~122.89~~ 122.90 of the Revised Code. 4758

(3) Adopt bylaws to govern the conduct of the business of the 4759
board. 4760

Sec. 122.74. (A) (1) The director of development shall do all 4761
of the following: 4762

~~(1)~~ (a) Receive applications for assistance under sections 4763
122.71 to ~~122.89~~ 122.90 of the Revised Code, and, after processing 4764
but subject to division (A)(2) of this section, forward them to 4765
the minority development financing advisory board together with 4766
necessary supporting information; 4767

~~(2)~~ (b) Receive the recommendations of the board and make a 4768
final determination whether to approve the application for 4769
assistance; 4770

~~(3)~~ (c) Receive recommendations from a regional economic 4771
development entity for loans made under section 122.76 of the 4772
Revised Code and make a final determination, notwithstanding 4773

divisions (A)(1) and (2) of this section, whether to approve the 4774
proposed loan; 4775

(d) Transmit the director's determinations to approve 4776
assistance to the controlling board together with any information 4777
the controlling board requires for its review and decision as to 4778
whether to approve the assistance. 4779

(2) The director is not required to submit any determination, 4780
data, terms, or any other application materials or information to 4781
the minority development financing advisory board when provision 4782
of the assistance has been recommended to the director by a 4783
regional economic development entity. 4784

(B) The director may do all of the following: 4785

(1) Fix the rate of interest and charges to be made upon or 4786
with respect to moneys loaned or guaranteed by the director and 4787
the terms upon which mortgages and lease rentals may be guaranteed 4788
and the rates of charges to be made for them and make provisions 4789
for the operation of the funds established by the director in 4790
accordance with this section and sections 122.80 ~~and~~, 122.88, ~~and~~
122.90 of the Revised Code; 4791
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(2) Loan and guarantee moneys from the fund established in 4793
accordance with section 122.80 of the Revised Code pursuant to and 4794
in compliance with sections 122.71 to ~~122.89~~ 122.90 of the Revised 4795
Code. 4796

(3) Acquire in the name of the director any property of any 4797
kind or character in accordance with sections 122.71 to ~~122.89~~ 4798
122.90 of the Revised Code, by purchase, purchase at foreclosure, 4799
or exchange on such terms and in such manner as the director 4800
considers proper; 4801

(4) Make and enter into all contracts and agreements 4802
necessary or incidental to the performance of the director's 4803
duties and the exercise of the director's powers under sections 4804

122.71 to ~~122.89~~ 122.90 of the Revised Code;

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(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;

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(6)(a) When the cost of any contract for the maintenance, protection, repair, or improvement of any property held by the director, other than compensation for personal services, involves an expenditure of more than fifty thousand dollars, the director shall make a written contract with the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code after advertisement for not less than two consecutive weeks in a newspaper of general circulation in the county where such contract, or some substantial part of it, is to be performed, and in such other publications as the director determines, which 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 therefor may be examined, and the time and place of receiving bids.

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(b) 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.

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

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- (d) The director may reject any and all bids. 4836
- (e) A bond with good and sufficient surety, approved by the 4837
director, shall be required of every contractor awarded a contract 4838
except as provided in division (B)(6)(b) of this section, in an 4839
amount equal to at least fifty per cent of the contract price, 4840
conditioned upon faithful performance of the contract. 4841
- (7) Employ or contract with financial consultants, 4842
appraisers, consulting engineers, superintendents, managers, 4843
construction and accounting experts, attorneys, and other 4844
employees and agents as are necessary in the director's judgment 4845
and fix their compensation; 4846
- (8) Receive and accept grants, gifts, and contributions of 4847
money, property, labor, and other things of value to be held, 4848
used, and applied only for the purpose for which ~~such~~ the grants, 4849
gifts, and contributions are made, from individuals, private and 4850
public corporations, from the United States or any agency thereof, 4851
from the state or any agency thereof, and from any political 4852
subdivision of the state, and may agree to repay any contribution 4853
of money or to return any property contributed or the value 4854
thereof at such times, in ~~such~~ amounts, and on ~~such~~ terms and 4855
conditions, excluding the payment of interest, as the director 4856
determines at the time ~~such~~ the contribution is made, and may 4857
evidence ~~such~~ the obligations by notes, bonds, or other written 4858
instruments; 4859
- (9) Establish with the treasurer of state the funds provided 4860
in sections 122.80 and 122.88 of the Revised Code in addition to 4861
such funds as the director determines are necessary or proper; 4862
- (10) Adopt rules under Chapter 119. of the Revised Code 4863
necessary to implement sections 122.71 to ~~122.83~~ 122.90 of the 4864
Revised Code. 4865
- (11) Do all acts and things necessary or proper to carry out 4866

the powers expressly granted and the duties imposed in sections 4867
122.71 to ~~122.89~~ 122.90 of the Revised Code. 4868

(C)(1) All expenses and obligations incurred by the director 4869
in carrying out the director's powers and in exercising the 4870
director's duties under sections 122.71 to ~~122.89~~ 122.90 of the 4871
Revised Code shall be payable solely from revenues or other 4872
receipts or income of the director, from grants, gifts, and 4873
contributions, or funds established in accordance with such 4874
sections. Such sections do not authorize the director to incur 4875
indebtedness or to impose liability on the state or any political 4876
subdivision of the state. 4877

(2) Financial statements and other data submitted to the 4878
director by any corporation, partnership, or person in connection 4879
with financial assistance provided under sections 122.71 to ~~122.89~~ 4880
122.90 of the Revised Code, or any information taken from such 4881
statements or data for any purpose, shall not be open to public 4882
inspection. 4883

Sec. 122.75. The director of development shall, for the 4884
minority business development loan program ~~and~~, the minority 4885
business bonding program, and the minority business bond guarantee 4886
program under sections 122.87 to ~~122.89~~ 122.90 of the Revised 4887
Code, do all of the following: 4888

(A) Hire employees, consultants, and agents and fix their 4889
compensation; 4890

(B) Adopt bylaws and rules for the regulation of the business 4891
of the minority development financing advisory board; 4892

(C) Receive and accept grants, gifts, and contributions of 4893
money, property, labor, and other things of value, to be held, 4894
used, and applied only for the purpose for which the grants, 4895
gifts, and contributions are made, from individuals, private and 4896

public corporations, the United States or any agency of the United States, the state or any agency of the state, and any political subdivision of the state. The director may agree to repay any contribution of money or to return any property contributed or its value at such times, in ~~such~~ amounts, and on ~~such~~ terms and conditions, excluding the payment of interest, as the director determines at the time the contribution is made. The director may evidence the obligations by written contracts, subject to section 122.76 of the Revised Code; provided, that the director shall not thereby incur indebtedness of or impose liability upon the state or any political subdivision.

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

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

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

(G)(1) Maintain, protect, repair, improve, and insure any property the director has acquired and dispose of it by sale, exchange, or lease for the consideration and on terms and in a manner the director considers proper. The director may not operate any property as a business except as a lessor of the property.

When the cost of any contract for the maintenance, protection, 4928
repair, or improvement of any property of the advisory board 4929
connected with the minority business development loan program, 4930
other than compensation for personal services, involves an 4931
expenditure of more than one thousand dollars, the director shall 4932
enter into a written contract with the lowest and best bidder 4933
after advertisement for not less than four consecutive weeks in a 4934
newspaper of general circulation in the county where the contract, 4935
or some substantial part of it, is to be performed, and in other 4936
publications as the director determines. The notice shall state 4937
the general character of the work and the general character of the 4938
materials to be furnished, the place where plans and 4939
specifications for the work and materials may be examined, and the 4940
time and place of receiving bids. 4941

(2) Each bid for a contract for the construction, demolition, 4942
alteration, repair, or reconstruction of an improvement shall 4943
contain the full name of every person interested in it and meet 4944
the requirements of section 153.54 of the Revised Code. 4945

(3) Each bid for a contract, except as provided in division 4946
(G)(2) of this section, shall contain the full name of every 4947
person interested in it and shall be accompanied by a bond or 4948
certified check on a solvent bank, in the amount of ten per cent 4949
of the bid, that if the bid is accepted a contract will be entered 4950
into and the performance of its proposal secured. The director may 4951
reject any or all bids. A bond with good and sufficient surety, 4952
approved by the director, shall be required of all contractors in 4953
an amount equal to at least one hundred per cent of the contract 4954
price, conditioned upon faithful performance of the contract. 4955

(H) Expend money appropriated to the department of 4956
development by the general assembly for the purposes of sections 4957
122.71 to 122.83 and 122.87 to ~~122.89~~ 122.90 of the Revised Code; 4958

(I) Do all acts and things necessary or proper to carry out 4959
the powers expressly granted and the duties imposed in sections 4960
122.71 to 122.83 and 122.87 to ~~122.89~~ 122.90 of the Revised Code. 4961

Sec. 122.751. The minority development financing advisory 4962
board or a regional economic development entity shall only 4963
consider an application for a loan from any applicant after a 4964
certification by the equal employment opportunity coordinator of 4965
the department of administrative services under division (B)(1) of 4966
section 123.151 of the Revised Code that the applicant is a 4967
minority business enterprise, or after a certification by the 4968
minority business supplier development council that the applicant 4969
is a minority business, and that the applicant satisfies all 4970
criteria regarding eligibility for assistance pursuant to section 4971
122.76 of the Revised Code. 4972

Sec. 122.76. (A) The director of development, with 4973
controlling board approval, may lend funds to minority business 4974
enterprises and to community improvement corporations, Ohio 4975
development corporations, minority contractors business assistance 4976
organizations, and minority business supplier development councils 4977
for the purpose of loaning funds to minority business enterprises 4978
and for the purpose of procuring or improving real or personal 4979
property, or both, for the establishment, location, or expansion 4980
of industrial, distribution, commercial, or research facilities in 4981
the state, if the director determines, in the director's sole 4982
discretion, that all of the following apply: 4983

(1) The project is economically sound and will benefit the 4984
people of the state by increasing opportunities for employment, by 4985
strengthening the economy of the state, or expanding minority 4986
business enterprises. 4987

(2) The proposed minority business enterprise borrower is 4988

unable to finance the proposed project through ordinary financial channels at comparable terms. 4989
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(3) The value of the project is or, upon completion, will be at least equal to the total amount of the money expended in the procurement or improvement of the project, and one or more financial institutions or other governmental entities have loaned not less than thirty per cent of that amount. 4991
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(4) The amount to be loaned by the director will not exceed sixty per cent of the total amount expended in the procurement or improvement of the project. 4996
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(5) The amount to be loaned by the director will be adequately secured by a first or second mortgage upon the project or by mortgages, leases, liens, assignments, or pledges on or of other property or contracts as the director requires, and such mortgage will not be subordinate to any other liens or mortgages except the liens securing loans or investments made by financial institutions referred to in division (A)(3) of this section, and the liens securing loans previously made by any financial institution in connection with the procurement or expansion of all or part of a project. 4999
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(B) Any proposed minority business enterprise borrower submitting an application for assistance under this section shall not have defaulted on a previous loan from the director, and no full or limited partner, major shareholder, or holder of an equity interest of the proposed minority business enterprise borrower shall have defaulted on a loan from the director. 5009
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(C) The proposed minority business enterprise borrower shall demonstrate to the satisfaction of the director that it is able to successfully compete in the private sector if it obtains the necessary financial, technical, or managerial support and that support is available through the director, the minority business 5015
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development office of the department of development, or other 5020
identified and acceptable sources. In determining whether a 5021
minority business enterprise borrower will be able to successfully 5022
compete, the director may give consideration to such factors as 5023
the successful completion of or participation in courses of study, 5024
recognized by the board of regents as providing financial, 5025
technical, or managerial skills related to the operation of the 5026
business, by the economically disadvantaged individual, owner, or 5027
partner, and the prior success of the individual, owner, or 5028
partner in personal, career, or business activities, as well as to 5029
other factors identified by the director. 5030

(D) The director shall not lend funds for the purpose of 5031
procuring or improving motor vehicles, ~~power driven vehicles,~~ 5032
~~office equipment, raw materials, small tools, supplies,~~ 5033
~~inventories,~~ or accounts receivable. 5034

Sec. 122.77. (A) The director of development with controlling 5035
board approval may make loan guarantees to small businesses and 5036
corporations for the purpose of guaranteeing loans made to small 5037
businesses by financial institutions for the purpose of procuring 5038
or improving real or personal property, or both, for the 5039
establishment, location, or expansion of industrial, distribution, 5040
commercial, or research facilities in the state, if the director 5041
determines, in ~~his~~ the director's sole discretion, that all of the 5042
following apply: 5043

(1) The project is economically sound and will benefit the 5044
people of the state by increasing opportunities for employment, by 5045
strengthening the economy of the state, or expanding minority 5046
business enterprises~~+~~. 5047

(2) The proposed small business borrower is unable to finance 5048
the proposed project through ordinary financial channels at 5049
comparable terms~~+~~. 5050

(3) The value of the project is, or upon completion of it 5051
will be, at least equal to the total amount of the money expended 5052
in the procurement or improvement of the project and of which 5053
amount one or more financial institutions or other governmental 5054
entities have loaned not less than thirty per cent~~+~~. 5055

(4) The amount to be guaranteed by the director will not 5056
exceed ~~fifty~~ eighty per cent of the total amount expended in the 5057
procurement or improvement of the project~~+~~. 5058

(5) The amount to be guaranteed by the director will be 5059
adequately secured by a first or second mortgage upon the project, 5060
or by mortgages, leases, liens, assignments, or pledges on or of 5061
other property or contracts as the director shall require and that 5062
such mortgage will not be subordinate to any other liens or 5063
mortgages except the liens securing loans or investments made by 5064
financial institutions referred to in division (A)(3) of this 5065
section, and the liens securing loans previously made by any 5066
financial institution in connection with the procurement or 5067
expansion of all or part of a project. 5068

(B) The proposed small business borrower shall not have 5069
defaulted on a previous loan or guarantee from the director, and 5070
no full or limited partner, or major shareholder, or holder of any 5071
equity interest of the proposed minority business enterprise 5072
borrower shall have defaulted on a loan or guarantee from the 5073
director. 5074

(C) The proposed small business borrower shall demonstrate to 5075
the satisfaction of the director that it is able to successfully 5076
compete in the private sector if it obtains the necessary 5077
financial, technical, or managerial support and that support is 5078
available through the director, the minority business development 5079
office of the department of development, or other identified and 5080
acceptable sources. In determining whether a small business 5081

borrower will be able to successfully compete, the director may
give consideration to such factors as the successful completion of
or participation in courses of study, recognized by the board of
regents as providing financial, technical, or managerial skills
related to the operation of the business, by the economically
disadvantaged individual, owner, or partner, and the prior success
of the individual, owner, or partner in personal, career, or
business activities, as well as to other factors identified by the
director.

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

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

Sec. 122.79. The exercise of the powers granted by sections
122.71 to ~~122.89~~ 122.90 of the Revised Code, will be in all
respects for the benefit of the people of the state, for the
increase of their commerce and prosperity, for the increase and

expansion of minority business enterprises, and for the 5112
improvement of conditions of employment, and will constitute the 5113
performance of essential governmental functions; therefore, the 5114
director of development shall not be required to pay any taxes 5115
upon any property or assets held by ~~him~~ the director, or upon any 5116
property acquired or used by ~~him~~ the director under sections 5117
122.71 to ~~122.89~~ 122.90 of the Revised Code, or upon the income 5118
from it, provided that this exemption shall not apply to any 5119
property held by the director while it is in the possession of a 5120
private person, partnership, or corporation and used for private 5121
purposes for profit, in which case such tax liability shall accrue 5122
to ~~such~~ the private person, partnership, or corporation. 5123

Sec. 122.82. All moneys, funds, properties, and assets 5124
acquired by the director of development shall be held by ~~him~~ the 5125
director in trust to carry out ~~his~~ the director's powers and 5126
duties, shall be used as provided in sections 122.71 to ~~122.89~~ 5127
122.90 of the Revised Code, and shall at no time be part of other 5128
public funds. 5129

Sec. 122.83. Any person who intentionally misrepresents that 5130
person's self as owning, controlling, operating, or participating 5131
in a minority business enterprise for the purpose of obtaining 5132
funds, contracts, subcontracts, services, or any other benefits 5133
under sections 122.71 to 122.85 or 122.87 to ~~122.89~~ 122.90 of the 5134
Revised Code is guilty of theft by deception, pursuant to section 5135
2913.02 of the Revised Code. 5136

Sec. 123.152. (A) As used in this section, "EDGE business 5137
enterprise" means a sole proprietorship, association, partnership, 5138
corporation, limited liability corporation, or joint venture 5139
certified as a participant in the encouraging diversity, growth, 5140
and equity program by the director of administrative services 5141

under this section of the Revised Code. 5142

(B) The director of administrative services shall establish a 5143
business assistance program known as the encouraging diversity, 5144
growth, and equity program and shall adopt rules in accordance 5145
with Chapter 119. of the Revised Code to administer the program 5146
~~and~~ that do all of the following: 5147

(1) Establish procedures by which a sole proprietorship, 5148
association, partnership, corporation, limited liability 5149
corporation, or joint venture may apply for certification as an 5150
EDGE business enterprise; 5151

(2) ~~Establish~~ Except as provided in division (B)(14) of this 5152
section, establish agency procurement goals for contracting with 5153
EDGE business enterprises in the award of contracts under Chapters 5154
123., 125., and 153. of the Revised Code based on the availability 5155
of eligible program participants by region or geographic area, as 5156
determined by the director, and by standard industrial code or 5157
equivalent code classification. 5158

(a) Goals established under division (B)(2) of this section 5159
shall be based on a percentage level of participation and a 5160
percentage of contractor availability. 5161

(b) Goals established under division (B)(2) of this section 5162
shall be applied at the contract level, relative to an overall 5163
dollar goal for each state agency, in accordance with the 5164
following certification categories: construction, architecture, 5165
and engineering; professional services; goods and services; and 5166
information technology services. 5167

(3) Establish a system of certifying EDGE business 5168
enterprises based on a requirement that the business owner or 5169
owners show both social and economic disadvantage based on the 5170
following, as determined to be sufficient by the director: 5171

(a) Relative wealth of the business seeking certification as well as the personal wealth of the owner or owners of the business;	5172 5173 5174
(b) Social disadvantage based on any of the following:	5175
(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;	5176 5177 5178 5179 5180 5181
(ii) Some other demonstration of personal disadvantage not common to other small businesses;	5182 5183
(iii) By business location in a qualified census tract.	5184
(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.	5185 5186 5187 5188
(4) Establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification;	5189 5190 5191
(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;	5192 5193 5194 5195
(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;	5196 5197 5198 5199
(7) Establish a system to track data and analyze each certification category established under division (B)(2)(b) of	5200 5201

this section;	5202
(8) Establish a process to mediate complaints and to review EDGE business enterprise certification appeals;	5203 5204
(9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program;	5205 5206 5207
(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes;	5208 5209 5210
(11) Implement a system of self-reporting by EDGE business enterprises as well as an on-site inspection process to validate the qualifications of an EDGE business enterprise;	5211 5212 5213
(12) Establish a waiver mechanism to waive program goals or participation requirements for those companies that, despite their best-documented efforts, are unable to contract with certified EDGE business enterprises;	5214 5215 5216 5217
(13) Establish a process for monitoring overall program compliance in which equal employment opportunity officers primarily are responsible for monitoring their respective agencies;	5218 5219 5220 5221
<u>(14) Establish guidelines for state universities as defined in section 3345.011 of the Revised Code and the Ohio school facilities commission created in section 3318.30 of the Revised Code for awarding contracts pursuant to Chapters 153., 3318., and 3345. of the Revised Code to allow the universities and commission to establish agency procurement goals for contracting with EDGE business enterprises.</u>	5222 5223 5224 5225 5226 5227 5228
(C) Not later than December 31, 2003, the director of administrative services shall prepare a detailed report to the governor outlining and evaluating the progress made in	5229 5230 5231

~~implementing the Business and personal financial information and~~ 5232
~~trade secrets submitted by~~ encouraging diversity, growth, and 5233
equity program ~~applicants to the director pursuant to this section~~ 5234
~~are not public records for purposes of section 149.43 of the~~ 5235
~~Revised Code, unless the director presents the financial~~ 5236
~~information or trade secrets at a public hearing or public~~ 5237
~~proceeding regarding the applicant's eligibility to participate in~~ 5238
~~the program.~~ 5239

Sec. 123.17. (A) As used in this section, "institution of 5240
higher education" means a state university or college, as defined 5241
in section 3345.12 of the Revised Code, or a state community 5242
college. 5243

(B) ~~The~~ Not later than December 30, 2005, the state architect 5244
shall establish a local administration competency certification 5245
program to certify institutions of higher education to administer 5246
capital facilities projects pursuant to section 3345.51 of the 5247
Revised Code without the supervision, control, or approval of the 5248
department of administrative services. The program shall offer 5249
instruction in the administration of capital facilities projects 5250
for employees of institutions of higher education who are 5251
responsible for such administration and who are selected by their 5252
employing institutions to participate in the program. 5253

(C) The program shall provide instruction about the 5254
provisions of Chapters 9., 123., and 153. of the Revised Code and 5255
any rules or policies adopted by the department regarding the 5256
planning, design, and construction of capital facilities, 5257
including all of the following: 5258

- (1) The planning, design, and construction process; 5259
- (2) Contract requirements; 5260
- (3) Construction management; 5261

(4) Project management.	5262
(D) The state architect shall award local administration competency certification to any institution of higher education if all of the following apply:	5263 5264 5265
(1) The institution applied for certification on a form and in a manner prescribed by the state architect.	5266 5267
(2) The state architect determines that a sufficient number of the institution's employees, representing a sufficient number of employee classifications, responsible for the administration of capital facilities projects has <u>have successfully</u> completed the certification program to ensure that any capital facilities project undertaken by the institution will be administered successfully and in accordance with all provisions of the Revised Code, and the board of trustees of the institution provides written assurance to the state architect that the institution will select new employees to participate in the certification program as necessary to compensate for employee turnover.	5268 5269 5270 5271 5272 5273 5274 5275 5276 5277 5278
(3) The state architect determines that the employees of the institution enrolled in the program demonstrate <u>successful completion of the competency certification training and a</u> satisfactory level of knowledge of and competency in the requirements for administering capital facilities projects.	5279 5280 5281 5282 5283
(4) The institution pays the fee prescribed by division (E) <u>(F)</u> of this section.	5284 5285
(5) The board of trustees of the institution provides written assurance to the state architect that the institution will conduct biennial audits of the institution's administration of capital facilities projects in accordance with division (C) of section 3345.51 of the Revised Code.	5286 5287 5288 5289 5290
(6) The board of trustees of the institution agrees in	5291

writing to indemnify and hold harmless the state and the 5292
department for any claim of injury, loss, or damage that results 5293
from the institution's administration of a capital facilities 5294
project. 5295

(E) Local administration competency certification granted 5296
under this section shall remain in effect for as long as the state 5297
architect determines that both of the following apply: 5298

(1) The institution of higher education maintains a 5299
sufficient number of employees responsible for the administration 5300
of capital facilities projects who have successfully completed the 5301
certification program and have demonstrated a satisfactory level 5302
of knowledge of and competency in the requirements for 5303
administering capital facilities projects; 5304

(2) The institution is performing the biennial audits 5305
prescribed in division (C) of section 3345.51 of the Revised Code. 5306

If the state architect determines that an institution of 5307
higher education has failed to comply with the conditions of 5308
division (E)(1) or (2) of this section, the state architect shall 5309
revoke the institution's certification and shall notify the board 5310
of trustees of the institution in writing of the revocation. 5311

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(F) The state architect shall establish, subject to the 5313
approval of the director of budget and management, the amount of 5314
the fee required to be paid by any institution of higher education 5315
that seeks certification under this section. The amount of the 5316
fees shall be set to cover the costs to implement this section, 5317
including the costs for materials and the competency certification 5318
training sessions. Any fees received under this section shall be 5319
paid into the state treasury to the credit of the state 5320
architect's fund established under section 123.10 of the Revised 5321
Code. 5322

~~(F)~~(G) Nothing in this section shall prohibit an institution 5323
that administers a capital facilities project under section 5324
3345.51 of the Revised Code from requesting guidance or other 5325
services from the department of administrative services. 5326

Sec. 125.041. Nothing in sections 125.02, 125.03 to 125.08, 5327
125.12 to 125.16, 125.18, 125.31 to 125.76, or 125.831 of the 5328
Revised Code shall be construed as limiting the attorney general, 5329
auditor of state, secretary of state, or treasurer of state in any 5330
of the following: 5331

(A) Purchases for less than the dollar amounts for the 5332
purchase of supplies or services determined pursuant to division 5333
(D) of section 125.05 of the Revised Code; 5334

(B) Purchases that equal or exceed the dollar amounts for the 5335
purchase of supplies or services determined pursuant to division 5336
(D) of section 125.05 of the Revised Code with the approval of the 5337
controlling board, if that approval is required by section 127.16 5338
of the Revised Code; 5339

(C) The final determination of the nature or quantity making 5340
any purchase of supplies or services to be purchased pursuant to 5341
section 125.06 of the Revised Code; 5342

(D) The final determination and disposal of excess and 5343
surplus supplies; 5344

(E) The inventory of state property; 5345

(F) The purchase of printing; 5346

(G) ~~The~~ Activities related to information technology 5347
development and use; 5348

(H) The fleet management program. 5349

Sec. 125.05. Except as provided in division (E) of this 5350

section, no state agency shall purchase any supplies or services 5351
except as provided in divisions (A) to (C) of this section. 5352

(A) Subject to division (D) of this section, a state agency 5353
may, without competitive selection, make any purchase of services 5354
that cost fifty thousand dollars or less or any purchase of 5355
supplies that cost twenty-five thousand dollars or less. The 5356
agency may make the purchase directly or may make the purchase 5357
from or through the department of administrative services, 5358
whichever the agency determines. The department shall establish 5359
written procedures to assist state agencies when they make direct 5360
purchases. If the agency makes the purchase directly, it shall 5361
make the purchase by a term contract whenever possible. 5362

(B) Subject to division (D) of this section, a state agency 5363
wanting to purchase services that cost more than fifty thousand 5364
dollars or supplies that cost more than twenty-five thousand 5365
dollars shall, unless otherwise authorized by law, make the 5366
purchase from or through the department. The department shall make 5367
the purchase by competitive selection under section 125.07 of the 5368
Revised Code. If the director of administrative services 5369
determines that it is not possible or not advantageous to the 5370
state for the department to make the purchase, the department 5371
shall grant the agency a release and permit under section 125.06 5372
of the Revised Code to make the purchase. Section 127.16 of the 5373
Revised Code does not apply to purchases the department makes 5374
under this section. 5375

(C) An agency that has been granted a release and permit to 5376
make a purchase may make the purchase without competitive 5377
selection if after making the purchase the cumulative purchase 5378
threshold as computed under division (F) of section 127.16 of the 5379
Revised Code would: 5380

(1) Be exceeded and the controlling board approves the 5381
purchase; 5382

(2) Not be exceeded and the department of administrative services approves the purchase. 5383
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(D) Not later than January 31, 1997, the amounts specified in divisions (A) and (B) of this section and, not later than the thirty-first day of January of each second year thereafter, any amounts computed by adjustments made under this division, shall be increased or decreased by the average percentage increase or decrease in 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") for the twenty-four calendar month period prior to the immediately preceding first day of January over the immediately preceding twenty-four calendar month period, as reported by the bureau. The director of administrative services shall make this determination and adjust the appropriate amounts accordingly. 5385
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(E) If ~~the Ohio SchoolNet commission~~, the department of education, ~~or~~ the Ohio education computer network, or the agency designated by the governor to assume the functions of the Ohio SchoolNet commission determines that it can purchase software services or supplies for specified school districts at a price less than the price for which the districts could purchase the same software services or supplies for themselves, the ~~office~~, department, ~~or~~ network, or agency shall certify that fact to the department of administrative services and, acting as an agent for the specified school districts, shall make that purchase without following the provisions in divisions (A) to (D) of this section. 5398
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Sec. 125.18. (A) There is hereby established the office of information technology in the department of administrative services. The office shall be under the supervision of a chief information officer to be appointed by the governor and subject to removal at the pleasure of the governor. The chief information 5409
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officer shall serve as the director of the office. 5414

(B) The director of the office of information technology shall advise the governor regarding the superintendence and implementation of statewide information technology policy. 5415
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(C) The director of the office of information technology shall lead, oversee, and direct state agency activities related to information technology development and use. In that regard, the director shall do all of the following: 5418
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(1) Coordinate and superintend statewide efforts to promote 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. 5422
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(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; 5427
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(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. 5431
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(D) The office of information technology may make contracts for, operate, and superintend technology services for state agencies in accordance with this chapter. 5441
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(E) The office of information technology may establish 5444
cooperative agreements with federal and local government agencies 5445
and state agencies that are not under the authority of the 5446
governor for the provision of technology services and the 5447
development of technology projects. 5448

(F) As used in this section, "state agency" means every 5449
organized body, office, or agency established by the laws of the 5450
state for the exercise of any function of state government, other 5451
than any state-supported institution of higher education, the 5452
office of the auditor of state, treasurer of state, secretary of 5453
state, or attorney general, the general assembly or any 5454
legislative agency, or the courts or any judicial agency. 5455

Sec. 125.831. As used in sections 125.831 to 125.833 of the 5456
Revised Code: 5457

(A) "Law enforcement officer" means an officer, agent, or 5458
employee of a state agency upon whom, by statute, a duty to 5459
conserve the peace or to enforce all or certain laws is imposed 5460
and the authority to arrest violators is conferred, within the 5461
limits of that statutory duty and authority, but does not include 5462
such an officer, agent, or employee if that duty and authority is 5463
location specific. 5464

(B)(1) "Motor vehicle" means any automobile, car minivan, 5465
cargo van, passenger van, sport utility vehicle, or pickup truck 5466
with a gross vehicle weight of under twelve thousand pounds. 5467

(2) "Motor vehicle" does not include, except for the purposes 5468
of division (C) of section 125.832 of the Revised Code, any 5469
vehicle described in division (B)(1) of this section that is used 5470
by a law enforcement officer and law enforcement agency or any 5471
vehicle that is so described and that is equipped with specialized 5472
equipment that is not normally found in such a vehicle and that is 5473

used to carry out a state agency's specific and specialized duties 5474
and responsibilities. 5475

(C) "Specialized equipment" does not include standard mobile 5476
radios with no capabilities other than voice communication, 5477
exterior and interior lights, or roof-mounted caution lights. 5478

(D) "State agency" means every organized body, office, board, 5479
authority, commission, or agency established by the laws of the 5480
state for the exercise of any governmental or quasi-governmental 5481
function of state government regardless of the funding source for 5482
that entity, other than any ~~state-supported~~ state institution of 5483
higher education, the office of the governor, lieutenant governor, 5484
auditor of state, treasurer of state, secretary of state, or 5485
attorney general, the general assembly or any legislative agency, 5486
~~or~~ the courts or any judicial agency, or any state retirement 5487
system or retirement program established by or referenced in the 5488
Revised Code. 5489

(E) "State institution of higher education" has the same 5490
meaning as in section 3345.011 of the Revised Code. 5491

Sec. 125.832. (A) The department of administrative services 5492
is granted exclusive authority over the acquisition and management 5493
of all motor vehicles used by state agencies. In carrying out this 5494
authority, the department shall do both of the following: 5495

(1) Approve the purchase or lease of each motor vehicle for 5496
use by a state agency. The department shall decide if a motor 5497
vehicle shall be leased or purchased for that use. 5498

Except as otherwise provided in division (A)(1) of this 5499
section, on and after July 1, 2005, each state agency shall 5500
acquire all passenger motor vehicles under the department's master 5501
leasing program. If the department determines that acquisition 5502
under that program is not the most economical method and if the 5503

department and the state agency acquiring the passenger motor 5504
vehicle can provide economic justification for doing so, the 5505
department may approve the purchase, rather than the lease, of a 5506
passenger motor vehicle for the acquiring state agency. 5507

(2) Direct and approve all funds that are expended for the 5508
purchase, lease, repair, maintenance, registration, insuring, and 5509
other costs related to the possession and operation of motor 5510
vehicles for the use of state agencies. 5511

(B) The director of administrative services shall establish 5512
and operate a fleet management program. The director shall operate 5513
the program for purposes including, but not limited to, 5514
cost-effective acquisition, maintenance, management, analysis, and 5515
disposal of all motor vehicles owned or leased by the state. All 5516
state agencies shall comply with statewide fleet management 5517
policies and procedures established by the director for the 5518
program, including, but not limited to, motor vehicle assignments, 5519
additions of motor vehicles to fleets or motor vehicle 5520
replacements, motor vehicle fueling, and motor vehicle repairs. 5521

(C) The director shall establish and maintain a fleet 5522
reporting system and shall require state agencies to submit to the 5523
department information relative to state motor vehicles, including 5524
motor vehicles described in division (B)(2) of section 125.831 of 5525
the Revised Code, to be used in operating the fleet management 5526
program. State agencies shall provide to the department fleet data 5527
and other information, including, but not limited to, mileage and 5528
costs. The data and other information shall be submitted in 5529
formats and in a manner determined by the department. 5530

(D) All state agency purchases or leases of motor vehicles 5531
are subject to the prior approval of the director under division 5532
(A)(1) of this section. 5533

(E) State agencies that utilize state motor vehicles or pay 5534

mileage reimbursements to employees shall provide a fleet plan to 5535
the department as directed by the department. 5536

(F)(1) The fleets of state agencies that consist of one 5537
hundred or less vehicles on July 1, 2004, shall be managed by the 5538
department's fleet management program on a time schedule 5539
determined by the department, unless the state agency has received 5540
delegated authority as described in division (G) of this section. 5541

(2) The fleets of state agencies that consist of greater than 5542
one hundred motor vehicles, but less than five hundred motor 5543
vehicles, on July 1, 2005, also shall be managed by the 5544
department's fleet management program on a time schedule 5545
determined by the department, unless the state agency has received 5546
delegated authority as described in division (G) of this section. 5547

(G)(1) The department may delegate any or all of its duties 5548
regarding fleet management to a state agency, if the state agency 5549
demonstrates to the satisfaction of the department both of the 5550
following: 5551

(a) Capabilities to institute and manage a fleet management 5552
program, including, but not limited to, the presence of a 5553
certified fleet manager; 5554

(b) Fleet management performance, as demonstrated by fleet 5555
data and other information submitted pursuant to annual reporting 5556
requirements and any other criteria the department considers 5557
necessary in evaluating the performance. 5558

(2) The department may determine that a state agency is not 5559
in compliance with this section and direct that the agency's fleet 5560
management duties be transferred to the department. 5561

(H) The proceeds derived from the disposition of any motor 5562
vehicles under this section shall be paid to whichever of the 5563
following applies: 5564

(1) The fund that originally provided moneys for the purchase 5565
or lease of the motor vehicles; 5566

(2) If the motor vehicles were originally purchased with 5567
moneys derived from the general revenue fund, the proceeds shall 5568
be deposited, in the director's discretion, into the state 5569
treasury ~~for~~ to the credit to of either the fleet management fund 5570
created by section 125.83 of the Revised Code or the investment 5571
recovery fund created by section 125.14 of the Revised Code. 5572

(I)(1) The department shall create and maintain a certified 5573
fleet manager program. 5574

(2) State agencies that have received delegated authority as 5575
described in division (G) of this section shall have a certified 5576
fleet manager. 5577

(J) The department annually shall prepare and submit a 5578
statewide fleet report to the governor, the speaker of the house 5579
of representatives, and the president of the senate. The report 5580
shall be submitted not later than the thirty-first day of January 5581
following the end of each fiscal year. It may include, but is not 5582
limited to, the numbers and types of motor vehicles, their 5583
mileage, miles per gallon, and cost per mile, mileage 5584
reimbursements, accident and insurance data, and information 5585
regarding compliance by state agencies having delegated authority 5586
under division (G) of this section with applicable fleet 5587
management requirements. 5588

(K) The director shall adopt rules for implementing the fleet 5589
management program that are consistent with recognized best 5590
practices. The program shall be supported by reasonable fee 5591
charges for the services provided. The director shall collect 5592
these fees and deposit them into the state treasury to the credit 5593
for the fleet management fund created by section 125.83 of the 5594
Revised Code. The setting and collection of fees under this 5595

division is not subject to any restriction imposed by law upon the 5596
director's or the department's authority to set or collect fees. 5597

(L) The director also shall adopt rules that prohibit, except 5598
in very limited circumstances, the exclusive assignment of 5599
state-owned, leased, or pooled motor vehicles to state employees 5600
and that prohibit the reimbursement under section 126.31 of the 5601
Revised Code of state employees who use their own motor vehicles 5602
for any mileage they incur above an amount that the department 5603
shall determine annually unless reimbursement for the excess 5604
mileage is approved by the department in accordance with standards 5605
for that approval the director shall establish in those rules. 5606
~~Beginning on the effective date of this section September 26,~~ 5607
~~2003, no ~~such~~ state-owned, leased, or pooled~~ motor vehicle shall 5608
be personally assigned as any form of compensation or benefit of 5609
state employment, and no ~~such~~ state-owned, leased, or pooled motor 5610
vehicle shall be assigned to an employee solely for commuting to 5611
and from home and work. 5612

(M) The director shall do both of the following: 5613

(1) Implement to the greatest extent possible the 5614
recommendations from the 2002 report entitled "Administrative 5615
Analysis of the Ohio Fleet Management Program" in connection with 5616
the authority granted to the department by this section; 5617

(2) Attempt to reduce the number of passenger vehicles used 5618
by state agencies during the fiscal years ending on June 30, 2004, 5619
and June 30, 2005. 5620

(N) Each state agency shall reimburse the department for all 5621
costs incurred in the assignment of motor vehicles to the state 5622
agency. 5623

(O) The director shall do all of the following in managing 5624
the fleet management program: 5625

- (1) Determine how motor vehicles will be maintained, insured, operated, financed, and licensed; 5626
5627
- (2) Pursuant to the formula in division (O)(3) of this section, annually establish the minimum number of business miles per year an employee of a state agency must drive in order to qualify for approval by the department to receive a motor vehicle for business use; 5628
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- (3) Establish the minimum number of business miles per year at an amount that results when the annual motor vehicle cost is divided by the amount that is the reimbursement rate per mile minus the amount that is the sum of the fuel cost, the operating cost, and the insurance cost. As used in this division: 5633
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- (a) "Annual motor vehicle cost" means the price of a motor vehicle divided by the number of years an average motor vehicle is used. 5638
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- (b) "Fuel cost" means the average price per gallon of motor fuel divided by the miles per gallon fuel efficiency of a motor vehicle. 5641
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- (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. 5644
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- (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. 5647
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- (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. 5651
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- (P) Each state institution of higher education shall do all 5655

of the following relating to motor vehicles that the institution 5656
acquires and manages: 5657

(1) Use the department's vehicle fleet management software 5658
system to track the motor vehicles; 5659

(2) Use the department's fuel card program to purchase fuel 5660
for, or to pay for the maintenance of, the motor vehicles; 5661

(3) Make bulk fuel purchases for the motor vehicles under the 5662
department's contract for those purchases. 5663

Sec. 126.25. The accounting and budgeting services provided 5664
by the director of budget and management shall be supported by 5665
user charges. The director shall determine a rate that is 5666
sufficient to defray the expense of those services and the manner 5667
by which those charges shall be collected. All money collected 5668
from user charges shall be deposited in the state treasury to the 5669
credit of the ~~state~~ accounting and budgeting fund, which is hereby 5670
created. Rebates or revenue shares received from any state payment 5671
card program established under division (B) of section 126.21 of 5672
the Revised Code and miscellaneous payments that reimburse 5673
expenses paid from the ~~state~~ accounting and budgeting fund may be 5674
deposited into the ~~state~~ accounting and budgeting fund and used to 5675
support accounting and budgeting services. 5676

Sec. 127.16. (A) Upon the request of either a state agency or 5677
the director of budget and management and after the controlling 5678
board determines that an emergency or a sufficient economic reason 5679
exists, the controlling board may approve the making of a purchase 5680
without competitive selection as provided in division (B) of this 5681
section. 5682

(B) Except as otherwise provided in this section, no state 5683
agency, using money that has been appropriated to it directly, 5684
shall: 5685

(1) Make any purchase from a particular supplier, that would 5686
amount to fifty thousand dollars or more when combined with both 5687
the amount of all disbursements to the supplier during the fiscal 5688
year for purchases made by the agency and the amount of all 5689
outstanding encumbrances for purchases made by the agency from the 5690
supplier, unless the purchase is made by competitive selection or 5691
with the approval of the controlling board; 5692

(2) Lease real estate from a particular supplier, if the 5693
lease would amount to seventy-five thousand dollars or more when 5694
combined with both the amount of all disbursements to the supplier 5695
during the fiscal year for real estate leases made by the agency 5696
and the amount of all outstanding encumbrances for real estate 5697
leases made by the agency from the supplier, unless the lease is 5698
made by competitive selection or with the approval of the 5699
controlling board. 5700

(C) Any person who authorizes a purchase in violation of 5701
division (B) of this section shall be liable to the state for any 5702
state funds spent on the purchase, and the attorney general shall 5703
collect the amount from the person. 5704

(D) Nothing in division (B) of this section shall be 5705
construed as: 5706

(1) A limitation upon the authority of the director of 5707
transportation as granted in sections 5501.17, 5517.02, and 5708
5525.14 of the Revised Code; 5709

(2) Applying to medicaid provider agreements under Chapter 5710
5111. of the Revised Code ~~or payments or provider agreements under~~ 5711
~~the disability medical assistance program established under~~ 5712
~~Chapter 5115. of the Revised Code;~~ 5713

(3) Applying to the purchase of examinations from a sole 5714
supplier by a state licensing board under Title XLVII of the 5715
Revised Code; 5716

(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;

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

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

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

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

(9) Applying to payments by the department of job and family

services under section 5111.13 of the Revised Code for group	5748
health plan premiums, deductibles, coinsurance, and other	5749
cost-sharing expenses;	5750
(10) Applying to any agency of the legislative branch of the	5751
state government;	5752
(11) Applying to agreements or contracts entered into under	5753
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the	5754
Revised Code;	5755
(12) Applying to purchases of services by the adult parole	5756
authority under section 2967.14 of the Revised Code or by the	5757
department of youth services under section 5139.08 of the Revised	5758
Code;	5759
(13) Applying to dues or fees paid for membership in an	5760
organization or association;	5761
(14) Applying to purchases of utility services pursuant to	5762
section 9.30 of the Revised Code;	5763
(15) Applying to purchases made in accordance with rules	5764
adopted by the department of administrative services of motor	5765
vehicle, aviation, or watercraft fuel, or emergency repairs of	5766
such vehicles;	5767
(16) Applying to purchases of tickets for passenger air	5768
transportation;	5769
(17) Applying to purchases necessary to provide public	5770
notifications required by law or to provide notifications of job	5771
openings;	5772
(18) Applying to the judicial branch of state government;	5773
(19) Applying to purchases of liquor for resale by the	5774
division of liquor control;	5775
(20) Applying to purchases of motor courier and freight	5776

services made in accordance with department of administrative	5777
services rules;	5778
(21) Applying to purchases from the United States postal	5779
service and purchases of stamps and postal meter replenishment	5780
from vendors at rates established by the United States postal	5781
service;	5782
(22) Applying to purchases of books, periodicals, pamphlets,	5783
newspapers, maintenance subscriptions, and other published	5784
materials;	5785
(23) Applying to purchases from other state agencies,	5786
including state-assisted institutions of higher education;	5787
(24) Limiting the authority of the director of environmental	5788
protection to enter into contracts under division (D) of section	5789
3745.14 of the Revised Code to conduct compliance reviews, as	5790
defined in division (A) of that section;	5791
(25) Applying to purchases from a qualified nonprofit agency	5792
pursuant to sections 4115.31 to 4115.35 of the Revised Code;	5793
(26) Applying to payments by the department of job and family	5794
services to the United States department of health and human	5795
services for printing and mailing notices pertaining to the tax	5796
refund offset program of the internal revenue service of the	5797
United States department of the treasury;	5798
(27) Applying to contracts entered into by the department of	5799
mental retardation and developmental disabilities under sections	5800
5123.18, 5123.182, and 5123.199 of the Revised Code;	5801
(28) Applying to payments made by the department of mental	5802
health under a physician recruitment program authorized by section	5803
5119.101 of the Revised Code;	5804
(29) Applying to contracts entered into with persons by the	5805
director of commerce for unclaimed funds collection and remittance	5806

efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.

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

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

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

(33) Applying to contracts with a contracting authority or administrative receiver under division ~~(G)(2)(B)~~ of section ~~5126.055~~ 5126.056 of the Revised Code;

(34) Applying to reimbursements paid to the United States department of veterans affairs for pharmaceutical and patient supply purchases made on behalf of the Ohio veterans' home agency;

(35) Applying to agreements the department of job and family services enters into with terminal distributors of dangerous drugs under section 5110.12 of the Revised Code.

(E) Notwithstanding division (B)(1) of this section, the cumulative purchase threshold shall be seventy-five thousand dollars for the departments of mental retardation and

developmental disabilities, mental health, rehabilitation and 5837
correction, and youth services. 5838

(F) When determining whether a state agency has reached the 5839
cumulative purchase thresholds established in divisions (B)(1), 5840
(B)(2), and (E) of this section, all of the following purchases by 5841
such agency shall not be considered: 5842

(1) Purchases made through competitive selection or with 5843
controlling board approval; 5844

(2) Purchases listed in division (D) of this section; 5845

(3) For the purposes of the thresholds of divisions (B)(1) 5846
and (E) of this section only, leases of real estate. 5847

(G) As used in this section, "competitive selection," 5848
"purchase," "supplies," and "services" have the same meanings as 5849
in section 125.01 of the Revised Code. 5850

Sec. 131.02. (A) Whenever any amount is payable to the state, 5851
the officer, employee, or agent responsible for administering the 5852
law under which the amount is payable shall immediately proceed to 5853
collect the amount or cause the amount to be collected and shall 5854
pay the amount into the state treasury or into the appropriate 5855
custodial fund in the manner set forth pursuant to section 113.08 5856
of the Revised Code. If Except as otherwise provided in this 5857
division, if the amount is not paid within forty-five days after 5858
payment is due, the officer, employee, or agent shall certify the 5859
amount due to the attorney general, in the form and manner 5860
prescribed by the attorney general, and notify the director of 5861
budget and management thereof. In the case of an amount payable by 5862
a student enrolled in a state institution of higher education, the 5863
amount shall be certified within the later of forty-five days 5864
after the amount is due or the tenth day after the beginning of 5865
the next academic semester, quarter, or other session following 5866

the session for which the payment is payable. The attorney general 5867
may assess the collection cost to the amount certified in such 5868
manner and amount as prescribed by the attorney general. 5869

For the purposes of this section, a payment is due at the 5870
time provided in divisions (A)(1) to (9) of this section. If more 5871
than one division applies to a payment, the payment is due at the 5872
earliest of the applicable times. 5873

(1) If a law, including an administrative rule, of this state 5874
prescribes the time a payment is required to be made or reported, 5875
when the payment is required by that law to be paid or reported. 5876

(2) If the payment is for services rendered, when the 5877
rendering of the services is completed. 5878

(3) If the payment is reimbursement for a loss, when the loss 5879
is incurred. 5880

(4) In the case of a fine or penalty for which a law or 5881
administrative rule does not prescribe a time for payment, when 5882
the fine or penalty is first assessed. 5883

(5) If the payment arises from a legal finding, judgment, or 5884
adjudication order, when the finding, judgment, or order is 5885
rendered or issued. 5886

(6) If the payment arises from an overpayment of money by the 5887
state to another person, when the overpayment is discovered. 5888

(7) The date on which the amount for which an individual is 5889
personally liable under section 5735.35, section 5739.33, or 5890
division (G) of section 5747.07 of the Revised Code is determined. 5891

(8) Upon proof of claim being filed in a bankruptcy case. 5892

(9) Any other appropriate time determined by the officer, 5893
employee, or agent responsible for administering the law under 5894
which the amount is payable on the basis of statutory requirements 5895
or ordinary business processes of the state agency to which the 5896

payment is owed. 5897

(B)(1) The attorney general shall give immediate notice by 5898
mail or otherwise to the party indebted of the nature and amount 5899
of the indebtedness. 5900

(2) If the amount payable to this state arises from a tax 5901
levied under Chapter 5733., 5739., 5741., or 5747. of the Revised 5902
Code, the notice also shall specify all of the following: 5903

(a) The assessment or case number; 5904

(b) The tax pursuant to which the assessment is made; 5905

(c) The reason for the liability, including, if applicable, 5906
that a penalty or interest is due; 5907

(d) An explanation of how and when interest will be added to 5908
the amount assessed; 5909

(e) That the attorney general and tax commissioner, acting 5910
together, have the authority, but are not required, to compromise 5911
the claim and accept payment over a reasonable time, if such 5912
actions are in the best interest of the state. 5913

(C) The attorney general shall collect the claim or secure a 5914
judgment and issue an execution for its collection. 5915

(D) Each claim shall bear interest, from the day on which the 5916
claim became due, at the rate per annum required by section 5917
5703.47 of the Revised Code. 5918

(E) The attorney general and the chief officer of the agency 5919
reporting a claim, acting together, may do any of the following if 5920
such action is in the best interests of the state: 5921

(1) Compromise the claim; 5922

(2) Extend for a reasonable period the time for payment of 5923
the claim by agreeing to accept monthly or other periodic 5924
payments. The agreement may require security for payment of the 5925

claim.	5926
(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.	5927 5928 5929
(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:	5930 5931 5932 5933 5934
(a) Sell, convey, or otherwise transfer the claim to one or more private entities for collection;	5935 5936
(b) Cancel the claim or cause it to be cancelled.	5937
(2) The attorney general shall cancel or cause to be cancelled an unsatisfied claim on the date that is forty years after the date the claim is certified.	5938 5939 5940
<u>Sec. 131.022.</u> (A) As used in this section:	5941
<u>(1) "Final overdue claim" means a claim that has been certified to the attorney general under section 131.02 of the Revised Code, that has been final for at least one year, and for which no arrangements have been made for the payment thereof or, if such arrangements have been made, the person owing the claim has failed to comply with the terms of the arrangement for more than thirty days.</u>	5942 5943 5944 5945 5946 5947 5948
<u>"Final overdue claim" includes collection costs incurred with respect to such a claim and assessed by the attorney general under division (A) of section 131.02 of the Revised Code, interest accruing to the claim under division (D) of that section, and fees added under division (E)(3) of that section.</u>	5949 5950 5951 5952 5953
<u>(2) "Final" means a claim has been finalized under the law</u>	5954

providing for the imposition or determination of the amount due, 5955
and any time provided for appeal of the amount, legality, or 5956
validity of the claim has expired without an appeal having been 5957
filed in the manner provided by law. "Final" includes, but is not 5958
limited to, a final determination of the tax commissioner for 5959
which the time for appeal has expired without a notice of appeal 5960
having been filed. 5961

(B) One year after a final overdue claim is certified to the 5962
attorney general, the attorney general may sell or otherwise 5963
transfer the claim to any person. If the claim is to be sold, it 5964
may be sold by private negotiated sale or at public auction 5965
conducted by the attorney general or a designee, as is most 5966
likely, in the opinion of the attorney general, to yield the most 5967
favorable return on the sale. For the purposes of this division, a 5968
public auction includes an auction conducted electronically 5969
whereby bids are solicited and received via the internet and the 5970
solicitation is open to the public. 5971

(C) The attorney general may consolidate any number of final 5972
overdue claims for sale under this section. 5973

(D) Not less than sixty days before first offering a final 5974
overdue claim for sale, the attorney general shall provide written 5975
notice, by ordinary mail, to the person owing the claim at that 5976
person's last known mailing address. The notice shall state the 5977
following: 5978

(1) The nature and amount of the claim; 5979

(2) The manner in which the person may contact the office of 5980
the attorney general to arrange terms for payment of the claim; 5981

(3) That if the person does not contact the office of the 5982
attorney general within sixty days after the date the notice is 5983
issued and arrange terms for payment of the claim: 5984

(a) The claim will be offered for sale to a private party for collection by that party by any legal means; 5985
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(b) The person is deemed to be denied any right to seek and obtain a refund of any amount from which the claim arises if the applicable law otherwise allows for such a refund; 5987
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(c) The person is deemed to waive any right the person may have to confidentiality of information regarding the claim to the extent confidentiality is provided under any other section of the Revised Code. 5990
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(E) Upon the sale or transfer of a final overdue claim under this section, the claim becomes the property of the purchaser or transferee, and may be sold or otherwise transferred by that person to any other person or otherwise disposed of. The owner of the claim is entitled to all proceeds from the collection of the claim. Purchasers or transferees of a final overdue claim are subject to any applicable laws governing collection of debts of the kind represented by the claim. 5994
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(F) Upon the sale or transfer of a final overdue claim under this section, no refund shall be issued or paid to the person owing the claim for any part of the amount from which the claim arises. 6002
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(G) Notwithstanding any other section of the Revised Code, the attorney general, solely for the purpose of effecting the sale or transfer of a final overdue claim under this section, may disclose information about the person owing the claim that otherwise would be confidential under a section of the Revised Code, and the person shall have no right of action against such disclosure to the extent such a right is available under that section. 6006
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(H) The authority granted under this section is supplemental to the authority granted under section 131.02 of the Revised Code. 6014
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Sec. 131.23. The various political subdivisions of this state 6016
may issue bonds, and any indebtedness created by such issuance 6017
shall not be subject to the limitations or included in the 6018
calculation of indebtedness prescribed by sections 133.05, 133.06, 6019
133.07, and 133.09 of the Revised Code, but such bonds may be 6020
issued only under the following conditions: 6021

(A) The subdivision desiring to issue such bonds shall obtain 6022
from the county auditor a certificate showing the total amount of 6023
delinquent taxes due and unpayable to such subdivision at the last 6024
semiannual tax settlement. 6025

(B) The fiscal officer of that subdivision shall prepare a 6026
statement, from the books of the subdivision, verified by the 6027
fiscal officer under oath, which shall contain the following facts 6028
of such subdivision: 6029

(1) The total bonded indebtedness; 6030

(2) The aggregate amount of notes payable or outstanding 6031
accounts of the subdivision, incurred prior to the commencement of 6032
the current fiscal year, which shall include all evidences of 6033
indebtedness issued by the subdivision except notes issued in 6034
anticipation of bond issues and the indebtedness of any 6035
nontax-supported public utility; 6036

(3) Except in the case of school districts, the aggregate 6037
current year's requirement for disability financial assistance ~~and~~ 6038
~~disability medical assistance~~ provided under Chapter 5115. of the 6039
Revised Code that the subdivision is unable to finance except by 6040
the issue of bonds; 6041

(4) The indebtedness outstanding through the issuance of any 6042
bonds or notes pledged or obligated to be paid by any delinquent 6043
taxes; 6044

(5) The total of any other indebtedness; 6045

(6) The net amount of delinquent taxes unpledged to pay any 6046
bonds, notes, or certificates, including delinquent assessments on 6047
improvements on which the bonds have been paid; 6048

(7) The budget requirements for the fiscal year for bond and 6049
note retirement; 6050

(8) The estimated revenue for the fiscal year. 6051

(C) The certificate and statement provided for in divisions 6052
(A) and (B) of this section shall be forwarded to the tax 6053
commissioner together with a request for authority to issue bonds 6054
of such subdivision in an amount not to exceed seventy per cent of 6055
the net unobligated delinquent taxes and assessments due and owing 6056
to such subdivision, as set forth in division (B)(6) of this 6057
section. 6058

(D) No subdivision may issue bonds under this section in 6059
excess of a sufficient amount to pay the indebtedness of the 6060
subdivision as shown by division (B)(2) of this section and, 6061
except in the case of school districts, to provide funds for 6062
disability financial assistance ~~and disability medical assistance,~~ 6063
as shown by division (B)(3) of this section. 6064

(E) The tax commissioner shall grant to such subdivision 6065
authority requested by such subdivision as restricted by divisions 6066
(C) and (D) of this section and shall make a record of the 6067
certificate, statement, and grant in a record book devoted solely 6068
to such recording and which shall be open to inspection by the 6069
public. 6070

(F) The commissioner shall immediately upon issuing the 6071
authority provided in division (E) of this section notify the 6072
proper authority having charge of the retirement of bonds of such 6073
subdivision by forwarding a copy of such grant of authority and of 6074
the statement provided for in division (B) of this section. 6075

(G) Upon receipt of authority, the subdivision shall proceed 6076
according to law to issue the amount of bonds authorized by the 6077
commissioner, and authorized by the taxing authority, provided the 6078
taxing authority of that subdivision may by resolution submit to 6079
the electors of that subdivision the question of issuing such 6080
bonds. Such resolution shall make the declarations and statements 6081
required by section 133.18 of the Revised Code. The county auditor 6082
and taxing authority shall thereupon proceed as set forth in 6083
divisions (C) and (D) of such section. The election on the 6084
question of issuing such bonds shall be held under divisions (E), 6085
(F), and (G) of such section, except that publication of the 6086
notice of such election shall be made on four separate days prior 6087
to such election in one or more newspapers of general circulation 6088
in the subdivisions. Such bonds may be exchanged at their face 6089
value with creditors of the subdivision in liquidating the 6090
indebtedness described and enumerated in division (B)(2) of this 6091
section or may be sold as provided in Chapter 133. of the Revised 6092
Code, and in either event shall be uncontestable. 6093

(H) The per cent of delinquent taxes and assessments 6094
collected for and to the credit of the subdivision after the 6095
exchange or sale of bonds as certified by the commissioner shall 6096
be paid to the authority having charge of the sinking fund of the 6097
subdivision, which money shall be placed in a separate fund for 6098
the purpose of retiring the bonds so issued. The proper authority 6099
of the subdivisions shall provide for the levying of a tax 6100
sufficient in amount to pay the debt charges on all such bonds 6101
issued under this section. 6102

(I) This section is for the sole purpose of assisting the 6103
various subdivisions in paying their unsecured indebtedness, and 6104
providing funds for disability financial assistance ~~and disability~~ 6105
~~medical assistance~~. The bonds issued under authority of this 6106
section shall not be used for any other purpose and any exchange 6107

for other purposes, or the use of the money derived from the sale 6108
of such bonds by the subdivision for any other purpose, is 6109
misapplication of funds. 6110

(J) The bonds authorized by this section shall be redeemable 6111
or payable in not to exceed ten years from date of issue and shall 6112
not be subject to or considered in calculating the net 6113
indebtedness of the subdivision. The budget commission of the 6114
county in which the subdivision is located shall annually allocate 6115
such portion of the then delinquent levy due such subdivision 6116
which is unpledged for other purposes to the payment of debt 6117
charges on the bonds issued under authority of this section. 6118

(K) The issue of bonds under this section shall be governed 6119
by Chapter 133. of the Revised Code, respecting the terms used, 6120
forms, manner of sale, and redemption except as otherwise provided 6121
in this section. 6122

The board of county commissioners of any county may issue 6123
bonds authorized by this section and distribute the proceeds of 6124
such bond issues to any or all of the cities and townships of such 6125
counties, according to their relative needs for disability 6126
financial assistance ~~and disability medical assistance~~ as 6127
determined by such county. 6128

All sections of the Revised Code inconsistent with or 6129
prohibiting the exercise of the authority conferred by this 6130
section are inoperative respecting bonds issued under this 6131
section. 6132

Sec. 131.46. There is hereby created in the state treasury 6133
the tax rate stabilization fund. The tax rate stabilization fund 6134
shall receive transfers of funds pursuant to sections 5751.033 and 6135
5751.034 of the Revised Code. It is the intent of the general 6136
assembly that the funds received into the tax rate stabilization 6137
fund be used for purposes of permanently reducing the rates of tax 6138

that apply to individuals with respect to the tax levied under 6139
section 5747.02 of the Revised Code. 6140

Sec. 133.09. (A) Unless it is a township that has adopted a 6141
limited home rule government under Chapter 504. of the Revised 6142
Code, a township shall not incur net indebtedness that exceeds an 6143
amount equal to five per cent of its tax valuation and, except as 6144
specifically authorized by section 505.262 of the Revised Code or 6145
other laws, shall not incur any net indebtedness unless authorized 6146
by vote of the electors. 6147

(B) A township that has adopted a limited home rule 6148
government under Chapter 504. of the Revised Code shall not incur 6149
net indebtedness that exceeds an amount equal to ten and one-half 6150
per cent of its tax valuation, or incur without a vote of the 6151
electors net indebtedness that exceeds an amount equal to five and 6152
one-half per cent of that tax valuation. In calculating the net 6153
indebtedness of a township that has adopted a limited home rule 6154
government, none of the following securities shall be considered: 6155

(1) Self-supporting securities issued for any purpose; 6156

(2) Securities issued for the purpose of purchasing, 6157
constructing, improving, or extending water or sanitary or surface 6158
and storm water sewerage systems or facilities, or a combination 6159
of those systems or facilities, to the extent that an agreement 6160
entered into with another subdivision requires the other 6161
subdivision to pay to the township amounts equivalent to debt 6162
charges on the securities; 6163

(3) Securities that are not general obligations of the 6164
township; 6165

(4) Voted securities issued for the purposes of redevelopment 6166
to the extent that their principal amount does not exceed an 6167
amount equal to two per cent of the tax valuation of the township; 6168

(5) Securities issued for the purpose of acquiring or 6169
constructing roads, highways, bridges, or viaducts, or for the 6170
purpose of acquiring or making other highway permanent 6171
improvements, to the extent that the resolution of the board of 6172
township trustees authorizing the issuance of the securities 6173
includes a covenant to appropriate from money distributed to the 6174
township under Chapter 4501., 4503., 4504., or 5735. of the 6175
Revised Code a sufficient amount to cover debt charges on and 6176
financing costs relating to the securities as they become due; 6177

(6) Securities issued for energy conservation measures under 6178
section 505.264 of the Revised Code. 6179

(C) In calculating the net indebtedness of any township, no 6180
obligation incurred under division (B) of section 513.17 or under 6181
section 505.261, 505.264, 505.265, 505.267, or 505.37 of the 6182
Revised Code, or in connection with a project undertaken pursuant 6183
to section 5540.032 of the Revised Code, shall be considered. 6184

Sec. 140.01. As used in this chapter: 6185

(A) "Hospital agency" means any public hospital agency or any 6186
nonprofit hospital agency. 6187

(B) "Public hospital agency" means any county, board of 6188
county hospital trustees established pursuant to section 339.02 of 6189
the Revised Code, county hospital commission established pursuant 6190
to section 339.14 of the Revised Code, municipal corporation, new 6191
community authority organized under Chapter 349. of the Revised 6192
Code, joint township hospital district, state or municipal 6193
university or college operating or authorized to operate a 6194
hospital facility, or the state. 6195

(C) "Nonprofit hospital agency" means a corporation or 6196
association not for profit, no part of the net earnings of which 6197
inures or may lawfully inure to the benefit of any private 6198

shareholder or individual, that has authority to own or operate a 6199
hospital facility or provides or is to provide services to one or 6200
more other hospital agencies. 6201

(D) "Governing body" means, in the case of a county, the 6202
board of county commissioners or other legislative body; in the 6203
case of a board of county hospital trustees, the board; in the 6204
case of a county hospital commission, the commission; in the case 6205
of a municipal corporation, the council or other legislative 6206
authority; in the case of a new community authority, its board of 6207
trustees; in the case of a joint township hospital district, the 6208
joint township district hospital board; in the case of a state or 6209
municipal university or college, its board of trustees or board of 6210
directors; in the case of a nonprofit hospital agency, the board 6211
of trustees or other body having general management of the agency; 6212
and, in the case of the state, the director of development or the 6213
Ohio higher educational facility commission. 6214

(E) "Hospital facilities" means buildings, structures and 6215
other improvements, additions thereto and extensions thereof, 6216
furnishings, equipment, and real estate and interests in real 6217
estate, used or to be used for or in connection with one or more 6218
hospitals, emergency, intensive, intermediate, extended, 6219
long-term, or self-care facilities, diagnostic and treatment and 6220
out-patient facilities, facilities related to programs for home 6221
health services, clinics, laboratories, public health centers, 6222
research facilities, and rehabilitation facilities, for or 6223
pertaining to diagnosis, treatment, care, or rehabilitation of 6224
sick, ill, injured, infirm, impaired, disabled, or handicapped 6225
persons, or the prevention, detection, and control of disease, and 6226
also includes education, training, and food service facilities for 6227
health professions personnel, housing facilities for such 6228
personnel and their families, and parking and service facilities 6229
in connection with any of the foregoing; and includes any one, 6230

part of, or any combination of the foregoing; and further includes 6231
site improvements, utilities, machinery, facilities, furnishings, 6232
and any separate or connected buildings, structures, improvements, 6233
sites, utilities, facilities, or equipment to be used in, or in 6234
connection with the operation or maintenance of, or supplementing 6235
or otherwise related to the services or facilities to be provided 6236
by, any one or more of such hospital facilities. 6237

(F) "Costs of hospital facilities" means the costs of 6238
acquiring hospital facilities or interests in hospital facilities, 6239
including membership interests in nonprofit hospital agencies, 6240
costs of constructing hospital facilities, costs of improving one 6241
or more hospital facilities, including reconstructing, 6242
rehabilitating, remodeling, renovating, and enlarging, costs of 6243
equipping and furnishing such facilities, and all financing costs 6244
pertaining thereto, including, without limitation thereto, costs 6245
of engineering, architectural, and other professional services, 6246
designs, plans, specifications and surveys, and estimates of cost, 6247
costs of tests and inspections, the costs of any indemnity or 6248
surety bonds and premiums on insurance, all related direct or 6249
allocable administrative expenses pertaining thereto, fees and 6250
expenses of trustees, depositories, and paying agents for the 6251
obligations, cost of issuance of the obligations and financing 6252
charges and fees and expenses of financial advisors, attorneys, 6253
accountants, consultants and rating services in connection 6254
therewith, capitalized interest on the obligations, amounts 6255
necessary to establish reserves as required by the bond 6256
proceedings, the reimbursement of all moneys advanced or applied 6257
by the hospital agency or others or borrowed from others for the 6258
payment of any item or items of costs of such facilities, and all 6259
other expenses necessary or incident to planning or determining 6260
feasibility or practicability with respect to such facilities, and 6261
such other expenses as may be necessary or incident to the 6262

acquisition, construction, reconstruction, rehabilitation, 6263
remodeling, renovation, enlargement, improvement, equipment, and 6264
furnishing of such facilities, the financing thereof, and the 6265
placing of the same in use and operation, including any one, part 6266
of, or combination of such classes of costs and expenses, and 6267
means the costs of refinancing obligations issued by, or 6268
reimbursement of money advanced by, nonprofit hospital agencies or 6269
others the proceeds of which were used for the payment of costs of 6270
hospital facilities, if the governing body of the public hospital 6271
agency determines that the refinancing or reimbursement advances 6272
the purposes of this chapter, whether or not the refinancing or 6273
reimbursement is in conjunction with the acquisition or 6274
construction of additional hospital facilities. 6275

(G) "Hospital receipts" means all moneys received by or on 6276
behalf of a hospital agency from or in connection with the 6277
ownership, operation, acquisition, construction, improvement, 6278
equipping, or financing of any hospital facilities, including, 6279
without limitation thereto, any rentals and other moneys received 6280
from the lease, sale, or other disposition of hospital facilities, 6281
and any gifts, grants, interest subsidies, or other moneys 6282
received under any federal program for assistance in financing the 6283
costs of hospital facilities, and any other gifts, grants, and 6284
donations, and receipts therefrom, available for financing the 6285
costs of hospital facilities. 6286

(H) "Obligations" means bonds, notes, or other evidences of 6287
indebtedness or obligation, including interest coupons pertaining 6288
thereto, issued or issuable by a public hospital agency to pay 6289
costs of hospital facilities. 6290

(I) "Bond service charges" means principal, interest, and 6291
call premium, if any, required to be paid on obligations. 6292

(J) "Bond proceedings" means one or more ordinances, 6293

resolutions, trust agreements, indentures, and other agreements or
documents, and amendments and supplements to the foregoing, or any
combination thereof, authorizing or providing for the terms,
including any variable interest rates, and conditions applicable
to, or providing for the security of, obligations and the
provisions contained in such obligations.

(K) "Nursing home" has the same meaning as in division (A)(1)
of section 5701.13 of the Revised Code.

(L) "Residential care facility" has the same meaning as in
division (A)(2) of section 5701.13 of the Revised Code.

(M) "Adult care facility" has the same meaning as in division
(A)(3) of section 5701.13 of the Revised Code.

(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:

(1) A hospital required to be certified by section 3727.02 of
the Revised Code;

(2) A nursing home or residential care facility;

(3) An adult care facility;

(4) A hospice licensed under section 3712.04 of the Revised
Code;

~~(5) A habilitation center as defined in section 5123.041 of
the Revised Code;~~

~~(6)~~ A residential facility for the mentally ill licensed by
the department of mental health under section 5119.22 of the
Revised Code;

~~(7)~~(6) A facility licensed to provide methadone treatment

under section 3793.11 of the Revised Code; 6323

~~(8)~~(7) A facility certified as an alcohol and drug addiction 6324
program under section 3793.06 of the Revised Code; 6325

~~(9)~~(8) A residential facility licensed under section 5123.19 6326
of the Revised Code or a facility providing services under a 6327
contract with the department of mental retardation and 6328
developmental disabilities under section 5123.18 of the Revised 6329
Code; 6330

~~(10)~~(9) A residential facility used as part of a hospital to 6331
provide housing for staff of the hospital or students pursuing a 6332
course of study at the hospital. 6333

Sec. 140.08. (A) Except as otherwise provided in ~~divisions~~ 6334
division (B)~~(1) and (2)~~ of this section, all hospital facilities 6335
purchased, acquired, constructed, or owned by a public hospital 6336
agency, or financed in whole or in part by obligations issued by a 6337
public hospital agency, and used, or to be used when completed, as 6338
hospital facilities, and the income therefrom, are exempt from all 6339
taxation within this state, including ad valorem and excise taxes, 6340
notwithstanding any other provisions of law, and hospital agencies 6341
are exempt from taxes levied under Chapters 5739. and 5741. of the 6342
Revised Code. The obligations issued hereafter under section 6343
133.08, 140.06, or 339.15 of the Revised Code or Section 3 of 6344
Article XVIII, Ohio Constitution, to pay costs of hospital 6345
facilities or to refund such obligations, and the transfer 6346
thereof, and the interest and other income from such obligations, 6347
including any profit made on the sale thereof, is free from 6348
taxation within the state. 6349

(B)(1) Division (A) of this section does not exempt 6350
independent living facilities from taxes levied on property or 6351
taxes levied under Chapters 5739. and 5741. of the Revised Code. 6352
If an independent living facility or part of such facility becomes 6353

an adult care facility, nursing home, or residential care facility 6354
on or after January 10, 1991, that part of the independent living 6355
facility that is an adult care facility, nursing home, or 6356
residential care facility is exempt from taxation subject to 6357
division (B)(2) of this section on and after the date it becomes 6358
an adult care facility, nursing home, or residential care 6359
facility. 6360

(2) Division (A) of this section exempts nursing homes, 6361
residential care facilities, and adult care facilities from taxes 6362
levied on property and taxes levied under Chapters 5739. and 5741. 6363
of the Revised Code only until all obligations issued to finance 6364
such homes or facilities, or all refunding or series of refundings 6365
of those obligations, are redeemed or otherwise retired. 6366

(3) Nothing in division (A) of this section exempts any 6367
person subject to this section from the tax levied by Chapter 6368
5751. of the Revised Code, but the tax shall be based solely on 6369
those gross receipts that contribute to such person's unrelated 6370
business income under the Internal Revenue Code of 1986, 100 Stat. 6371
2085, 26 U.S.C. 1, as amended. 6372

Sec. 141.011. Beginning in calendar year 2001, the annual 6373
salaries of the elective officers of the state shall be as follows 6374
rather than as prescribed by divisions (A) to (F) of section 6375
141.01 of the Revised Code: 6376

(A)(1) In calendar year 2001 the annual salary of the 6377
governor shall be one hundred twenty-six thousand four hundred 6378
ninety-seven dollars. 6379

(2) In calendar years 2002 through 2006 the annual salary of 6380
the governor shall be one hundred thirty thousand two hundred 6381
ninety-two dollars. 6382

(3) In calendar year 2007 the annual salary of the governor 6383

shall be the annual salary in 2006 increased by each of the 6384
following percentages in succession: 6385

(a) The lesser of three per cent or the percentage increase, 6386
if any, in the consumer price index from October 1, 2001, to 6387
September 30, 2002, rounded to the nearest one-tenth of one per 6388
cent; 6389

(b) The lesser of three per cent or the percentage increase, 6390
if any, in the consumer price index from October 1, 2002, to 6391
September 30, 2003, rounded to the nearest one-tenth of one per 6392
cent; 6393

(c) The lesser of three per cent or the percentage increase, 6394
if any, in the consumer price index from October 1, 2003, to 6395
September 30, 2004, rounded to the nearest one-tenth of one per 6396
cent; 6397

(d) The lesser of three per cent or the percentage increase, 6398
if any, in the consumer price index from October 1, 2004, to 6399
September 30, 2005, rounded to the nearest one-tenth of one per 6400
cent; 6401

(e) The lesser of three per cent or the percentage increase, 6402
if any, in the consumer price index from October 1, 2005, to 6403
September 30, 2006, rounded to the nearest one-tenth of one per 6404
cent. 6405

(4) In calendar year 2008 and thereafter, the annual salary 6406
of the governor shall be the annual salary in 2007 increased by 6407
the lesser of the following: 6408

(a) Three per cent; 6409

(b) The percentage increase, if any, in the consumer price 6410
index from October 1, 2006, to September 30, 2007, rounded to the 6411
nearest one-tenth of one per cent. 6412

(B)(1) In calendar year 2001 the annual salary of the 6413

lieutenant governor shall be sixty-six thousand three hundred six
dollars. 6414
6415

(2) In calendar years 2002 through 2006 the annual salary of
the lieutenant governor shall be sixty-eight thousand two hundred
ninety-five dollars. 6416
6417
6418

(3) In calendar year 2007 the annual salary of the lieutenant
governor shall be the annual salary in 2006 increased by each of
the following percentages in succession: 6419
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6421

(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; 6422
6423
6424
6425

(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; 6426
6427
6428
6429

(c) The lesser of three per cent or the percentage increase,
if any, in the consumer price index from October 1, 2003, to
September 30, 2004, rounded to the nearest one-tenth of one per
cent; 6430
6431
6432
6433

(d) The lesser of three per cent or the percentage increase,
if any, in the consumer price index from October 1, 2004, to
September 30, 2005, rounded to the nearest one-tenth of one per
cent; 6434
6435
6436
6437

(e) The lesser of three per cent or the percentage increase,
if any, in the consumer price index from October 1, 2005, to
September 30, 2006, rounded to the nearest one-tenth of one per
cent. 6438
6439
6440
6441

(4) In calendar year 2008 and thereafter, the annual salary
of the lieutenant governor shall be the annual salary in 2007 6442
6443

increased by the lesser of the following: 6444

(a) Three per cent; 6445

(b) The percentage increase, if any, in the consumer price 6446
index from October 1, 2006 to September 30, 2007, rounded to the 6447
nearest one-tenth of one per cent. 6448

If the governor appoints the lieutenant governor as an 6449
administrative department head ~~or as the director of the office of~~ 6450
~~criminal justice services under section 108.05 of the Revised~~ 6451
~~Code,~~ the lieutenant governor may accept the salary for that 6452
office while serving as its head in lieu of the salary for the 6453
office of lieutenant governor. 6454

(C)(1) In calendar year 2001 the annual salary of the 6455
secretary of state, auditor of state, treasurer of state, and 6456
attorney general shall be ninety-three thousand four hundred 6457
forty-seven dollars. 6458

(2) In calendar year 2002 the annual salary of the secretary 6459
of state, auditor of state, treasurer of state, and attorney 6460
general shall be ninety-six thousand two hundred fifty dollars. 6461

(3) In each calendar year from 2003 through 2008, the annual 6462
salary of the secretary of state, auditor of state, treasurer of 6463
state, and attorney general shall be increased by the lesser of 6464
the following: 6465

(a) Three per cent; 6466

(b) The percentage increase, if any, in the consumer price 6467
index over the twelve-month period that ends on the thirtieth day 6468
of September of the immediately preceding year, rounded to the 6469
nearest one-tenth of one per cent. 6470

(D) Upon the death of an elected executive officer of the 6471
state listed in divisions (A) to (F) of section 141.01 of the 6472
Revised Code during that person's term of office, an amount shall 6473

be paid in accordance with section 2113.04 of the Revised Code, or
to that person's estate. The amount shall equal the amount of the
salary that the officer would have received during the remainder
of the officer's unexpired term or an amount equal to the salary
of that person's office for two years, whichever is less.

(E) As used in this section, "consumer price index" has the
same meaning as in section 101.27 of the Revised Code.

Sec. 141.04. (A) The annual salaries of the chief justice of
the supreme court and of the justices and judges named in this
section payable from the state treasury are as follows, rounded to
the nearest fifty dollars:

(1) For the chief justice of the supreme court, the following
amounts effective in the following years:

(a) Beginning January 1, 2000, one hundred twenty-four
thousand nine hundred dollars;

(b) Beginning January 1, 2001, one hundred twenty-eight
thousand six hundred fifty dollars;

(c) After 2001, the amount determined under division (E)(1)
of this section.

(2) For the justices of the supreme court, the following
amounts effective in the following years:

(a) Beginning January 1, 2000, one hundred seventeen thousand
two hundred fifty dollars;

(b) Beginning January 1, 2001, one hundred twenty thousand
seven hundred fifty dollars;

(c) After 2001, the amount determined under division (E)(1)
of this section.

(3) For the judges of the courts of appeals, the following
amounts effective in the following years:

(a) Beginning January 1, 2000, one hundred nine thousand two hundred fifty dollars;	6503 6504
(b) Beginning January 1, 2001, one hundred twelve thousand five hundred fifty dollars;	6505 6506
(c) After 2001, the amount determined under division (E)(1) of this section.	6507 6508
(4) For the judges of the courts of common pleas, the following amounts effective in the following years:	6509 6510
(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 to section 141.05 of the Revised Code;	6511 6512 6513 6514
(b) Beginning January 1, 2001, one hundred three thousand five hundred dollars, reduced by an amount equal to the annual compensation paid to that judge from the county treasury pursuant to section 141.05 of the Revised Code;	6515 6516 6517 6518
(c) After 2001, the aggregate annual salary amount determined under division (E)(2) of this section reduced by an amount equal to the annual compensation paid to that judge from the county treasury pursuant to section 141.05 of the Revised Code.	6519 6520 6521 6522
(5) For the full-time judges of a municipal court or the part-time judges of a municipal court of a territory having a population of more than fifty thousand, the following amounts effective in the following years, which amounts shall be in addition to all amounts received pursuant to divisions (B)(1)(a) and (2) of section 1901.11 of the Revised Code from municipal corporations and counties:	6523 6524 6525 6526 6527 6528 6529
(a) Beginning January 1, 2000, thirty-two thousand six hundred fifty dollars;	6530 6531
(b) Beginning January 1, 2001, thirty-five thousand five	6532

hundred dollars; 6533

(c) After 2001, the amount determined under division (E)(3) 6534
of this section. 6535

(6) For judges of a municipal court designated as part-time 6536
judges by section 1901.08 of the Revised Code, other than 6537
part-time judges to whom division (A)(5) of this section applies, 6538
and for judges of a county court, the following amounts effective 6539
in the following years, which amounts shall be in addition to any 6540
amounts received pursuant to division (A) of section 1901.11 of 6541
the Revised Code from municipal corporations and counties or 6542
pursuant to division (A) of section 1907.16 of the Revised Code 6543
from counties: 6544

(a) Beginning January 1, 2000, eighteen thousand eight 6545
hundred dollars; 6546

(b) Beginning January 1, 2001, twenty thousand four hundred 6547
fifty dollars; 6548

(c) After 2001, the amount determined under division (E)(4) 6549
of this section. 6550

(B) Except as provided in section 1901.121 of the Revised 6551
Code, except as otherwise provided in this division, and except 6552
for the compensation to which the judges described in division 6553
(A)(5) of this section are entitled pursuant to divisions 6554
(B)(1)(a) and (2) of section 1901.11 of the Revised Code, the 6555
annual salary of the chief justice of the supreme court and of 6556
each justice or judge listed in division (A) of this section shall 6557
be paid in equal monthly installments from the state treasury. If 6558
the chief justice of the supreme court or any justice or judge 6559
listed in division (A)(2), (3), or (4) of this section delivers a 6560
written request to be paid biweekly to the administrative director 6561
of the supreme court prior to the first day of January of any 6562
year, the annual salary of the chief justice or the justice or 6563

judge that is listed in division (A)(2), (3), or (4) of this 6564
section shall be paid, during the year immediately following the 6565
year in which the request is delivered to the administrative 6566
director of the supreme court, biweekly from the state treasury. 6567

(C) Upon the death of the chief justice or a justice of the 6568
supreme court during that person's term of office, an amount shall 6569
be paid in accordance with section 2113.04 of the Revised Code, or 6570
to that person's estate. The amount shall equal the amount of the 6571
salary that the chief justice or justice would have received 6572
during the remainder of the unexpired term or an amount equal to 6573
the salary of office for two years, whichever is less. 6574

(D) Neither the chief justice of the supreme court nor any 6575
justice or judge of the supreme court, the court of appeals, the 6576
court of common pleas, or the probate court shall hold any other 6577
office of trust or profit under the authority of this state or the 6578
United States. 6579

(E)(1) Each calendar year from 2002 through 2008, the annual 6580
salaries of the chief justice of the supreme court and of the 6581
justices and judges named in divisions (A)(2) and (3) of this 6582
section shall be increased by an amount equal to the adjustment 6583
percentage for that year multiplied by the compensation paid the 6584
preceding year pursuant to division (A)(1), (2), or (3) of this 6585
section. 6586

(2) Each calendar year from 2002 through 2008, the aggregate 6587
annual salary payable under division (A)(4) of this section to the 6588
judges named in that division shall be increased by an amount 6589
equal to the adjustment percentage for that year multiplied by the 6590
aggregate compensation paid the preceding year pursuant to 6591
division (A)(4) of this section and section 141.05 of the Revised 6592
Code. 6593

(3) Each calendar year from 2002 through 2008, the salary 6594

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 section 1901.11 of the Revised Code from municipal corporations and counties or division (A) of section 1907.16 of the Revised Code from counties.

(F) In addition to the salaries payable pursuant to this section, the chief justice of the supreme court and the justices of the supreme court shall be entitled to a vehicle allowance of five hundred dollars per month, payable from the state treasury. The allowance shall be increased on the first day of January of each odd numbered year by an amount equal to the percentage increase, if any, in the consumer price index for the immediately preceding twenty-four month period for which information is available.

(G) As used in this section:

(1) The "adjustment percentage" for a year is the lesser of the following:

(a) Three per cent;

(b) The percentage increase, if any, in the consumer price index over the twelve-month period that ends on the thirtieth day of September of the immediately preceding year, rounded to the

nearest one-tenth of one per cent. 6626

(2) "Consumer price index" has the same meaning as in section 6627
101.27 of the Revised Code. 6628

(3) "Salary" does not include any portion of the cost, 6629
premium, or charge for health, medical, hospital, dental, or 6630
surgical benefits, or any combination of those benefits, covering 6631
the chief justice of the supreme court or a justice or judge named 6632
in this section and paid on the chief justice's or the justice's 6633
or judge's behalf by a governmental entity. 6634

Sec. 145.01. As used in this chapter: 6635

(A) "Public employee" means: 6636

(1) Any person holding an office, not elective, under the 6637
state or any county, township, municipal corporation, park 6638
district, conservancy district, sanitary district, health 6639
district, metropolitan housing authority, state retirement board, 6640
Ohio historical society, public library, county law library, union 6641
cemetery, joint hospital, institutional commissary, state 6642
university, or board, bureau, commission, council, committee, 6643
authority, or administrative body as the same are, or have been, 6644
created by action of the general assembly or by the legislative 6645
authority of any of the units of local government named in 6646
division (A)(1) of this section, or employed and paid in whole or 6647
in part by the state or any of the authorities named in division 6648
(A)(1) of this section in any capacity not covered by section 6649
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 6650

(2) A person who is a member of the public employees 6651
retirement system and who continues to perform the same or similar 6652
duties under the direction of a contractor who has contracted to 6653
take over what before the date of the contract was a publicly 6654
operated function. The governmental unit with which the contract 6655

has been made shall be deemed the employer for the purposes of
administering this chapter.

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(3) Any person who is an employee of a public employer,
notwithstanding that the person's compensation for that employment
is derived from funds of a person or entity other than the
employer. Credit for such service shall be included as total
service credit, provided that the employee makes the payments
required by this chapter, and the employer makes the payments
required by sections 145.48 and 145.51 of the Revised Code.

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(4) A person who elects in accordance with section 145.015 of
the Revised Code to remain a contributing member of the public
employees retirement system.

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In all cases of doubt, the public employees retirement board
shall determine whether any person is a public employee, and its
decision is final.

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(B) "Member" means any public employee, other than a public
employee excluded or exempted from membership in the retirement
system by section 145.03, 145.031, 145.032, 145.033, 145.034,
145.035, or 145.38 of the Revised Code. "Member" includes a PERS
retirant who becomes a member under division (C) of section 145.38
of the Revised Code. "Member" also includes a disability benefit
recipient.

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(C) "Head of the department" means the elective or appointive
head of the several executive, judicial, and administrative
departments, institutions, boards, and commissions of the state
and local government as the same are created and defined by the
laws of this state or, in case of a charter government, by that
charter.

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(D) "Employer" or "public employer" means the state or any
county, township, municipal corporation, park district,
conservancy district, sanitary district, health district,

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metropolitan housing authority, state retirement board, Ohio 6687
historical society, public library, county law library, union 6688
cemetery, joint hospital, institutional commissary, state medical 6689
college, state university, or board, bureau, commission, council, 6690
committee, authority, or administrative body as the same are, or 6691
have been, created by action of the general assembly or by the 6692
legislative authority of any of the units of local government 6693
named in this division not covered by section 742.01, 3307.01, 6694
3309.01, or 5505.01 of the Revised Code. In addition, "employer" 6695
means the employer of any public employee. 6696

(E) "Prior service" means all service as a public employee 6697
rendered before January 1, 1935, and all service as an employee of 6698
any employer who comes within the state teachers retirement system 6699
or of the school employees retirement system or of any other 6700
retirement system established under the laws of this state 6701
rendered prior to January 1, 1935, provided that if the employee 6702
claiming the service was employed in any capacity covered by that 6703
other system after that other system was established, credit for 6704
the service may be allowed by the public employees retirement 6705
system only when the employee has made payment, to be computed on 6706
the salary earned from the date of appointment to the date 6707
membership was established in the public employees retirement 6708
system, at the rate in effect at the time of payment, and the 6709
employer has made payment of the corresponding full liability as 6710
provided by section 145.44 of the Revised Code. "Prior service" 6711
also means all service credited for active duty with the armed 6712
forces of the United States as provided in section 145.30 of the 6713
Revised Code. 6714

If an employee who has been granted prior service credit by 6715
the public employees retirement system for service rendered prior 6716
to January 1, 1935, as an employee of a board of education 6717
establishes, before retirement, one year or more of contributing 6718

service in the state teachers retirement system or school 6719
employees retirement system, then the prior service ceases to be 6720
the liability of this system. 6721

If the board determines that a position of any member in any 6722
calendar year prior to January 1, 1935, was a part-time position, 6723
the board shall determine what fractional part of a year's credit 6724
shall be allowed by the following formula: 6725

(1) When the member has been either elected or appointed to 6726
an office the term of which was two or more years and for which an 6727
annual salary is established, the fractional part of the year's 6728
credit shall be computed as follows: 6729

First, when the member's annual salary is one thousand 6730
dollars or less, the service credit for each such calendar year 6731
shall be forty per cent of a year. 6732

Second, for each full one hundred dollars of annual salary 6733
above one thousand dollars, the member's service credit for each 6734
such calendar year shall be increased by two and one-half per 6735
cent. 6736

(2) When the member is paid on a per diem basis, the service 6737
credit for any single year of the service shall be determined by 6738
using the number of days of service for which the compensation was 6739
received in any such year as a numerator and using two hundred 6740
fifty days as a denominator. 6741

(3) When the member is paid on an hourly basis, the service 6742
credit for any single year of the service shall be determined by 6743
using the number of hours of service for which the compensation 6744
was received in any such year as a numerator and using two 6745
thousand hours as a denominator. 6746

(F) "Contributor" means any person who has an account in the 6747
employees' savings fund created by section 145.23 of the Revised 6748

Code. When used in the sections listed in division (B) of section 6749
145.82 of the Revised Code, "contributor" includes any person 6750
participating in a PERS defined contribution plan. 6751

(G) "Beneficiary" or "beneficiaries" means the estate or a 6752
person or persons who, as the result of the death of a member, 6753
contributor, or retirant, qualify for or are receiving some right 6754
or benefit under this chapter. 6755

(H)(1) "Total service credit," except as provided in section 6756
145.37 of the Revised Code, means all service credited to a member 6757
of the retirement system since last becoming a member, including 6758
restored service credit as provided by section 145.31 of the 6759
Revised Code; credit purchased under sections 145.293 and 145.299 6760
of the Revised Code; all the member's prior service credit; all 6761
the member's military service credit computed as provided in this 6762
chapter; all service credit established pursuant to section 6763
145.297 of the Revised Code; and any other service credited under 6764
this chapter. In addition, "total service credit" includes any 6765
period, not in excess of three years, during which a member was 6766
out of service and receiving benefits under Chapters 4121. and 6767
4123. of the Revised Code. For the exclusive purpose of satisfying 6768
the service credit requirement and of determining eligibility for 6769
benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, 6770
and 145.361 of the Revised Code, "five or more years of total 6771
service credit" means sixty or more calendar months of 6772
contributing service in this system. 6773

(2) "One and one-half years of contributing service credit," 6774
as used in division (B) of section 145.45 of the Revised Code, 6775
also means eighteen or more calendar months of employment by a 6776
municipal corporation that formerly operated its own retirement 6777
plan for its employees or a part of its employees, provided that 6778
all employees of that municipal retirement plan who have eighteen 6779
or more months of such employment, upon establishing membership in 6780

the public employees retirement system, shall make a payment of 6781
the contributions they would have paid had they been members of 6782
this system for the eighteen months of employment preceding the 6783
date membership was established. When that payment has been made 6784
by all such employee members, a corresponding payment shall be 6785
paid into the employers' accumulation fund by that municipal 6786
corporation as the employer of the employees. 6787

(3) Where a member also is a member of the state teachers 6788
retirement system or the school employees retirement system, or 6789
both, except in cases of retirement on a combined basis pursuant 6790
to section 145.37 of the Revised Code or as provided in section 6791
145.383 of the Revised Code, service credit for any period shall 6792
be credited on the basis of the ratio that contributions to the 6793
public employees retirement system bear to total contributions in 6794
all state retirement systems. 6795

(4) Not more than one year of credit may be given for any 6796
period of twelve months. 6797

(5) "Ohio service credit" means credit for service that was 6798
rendered to the state or any of its political subdivisions or any 6799
employer. 6800

(I) "Regular interest" means interest at any rates for the 6801
respective funds and accounts as the public employees retirement 6802
board may determine from time to time. 6803

(J) "Accumulated contributions" means the sum of all amounts 6804
credited to a contributor's individual account in the employees' 6805
savings fund together with any interest credited to the 6806
contributor's account under section 145.471 or 145.472 of the 6807
Revised Code. 6808

(K)(1) "Final average salary" means the quotient obtained by 6809
dividing by three the sum of the three full calendar years of 6810
contributing service in which the member's earnable salary was 6811

highest, except that if the member has a partial year of 6812
contributing service in the year the member's employment 6813
terminates and the member's earnable salary for the partial year 6814
is higher than for any comparable period in the three years, the 6815
member's earnable salary for the partial year shall be substituted 6816
for the member's earnable salary for the comparable period during 6817
the three years in which the member's earnable salary was lowest. 6818

(2) If a member has less than three years of contributing 6819
service, the member's final average salary shall be the member's 6820
total earnable salary divided by the total number of years, 6821
including any fraction of a year, of the member's contributing 6822
service. 6823

(3) For the purpose of calculating benefits payable to a 6824
member qualifying for service credit under division (Z) of this 6825
section, "final average salary" means the total earnable salary on 6826
which contributions were made divided by the total number of years 6827
during which contributions were made, including any fraction of a 6828
year. If contributions were made for less than twelve months, 6829
"final average salary" means the member's total earnable salary. 6830

(L) "Annuity" means payments for life derived from 6831
contributions made by a contributor and paid from the annuity and 6832
pension reserve fund as provided in this chapter. All annuities 6833
shall be paid in twelve equal monthly installments. 6834

(M) "Annuity reserve" means the present value, computed upon 6835
the basis of the mortality and other tables adopted by the board, 6836
of all payments to be made on account of any annuity, or benefit 6837
in lieu of any annuity, granted to a retirant as provided in this 6838
chapter. 6839

(N)(1) "Disability retirement" means retirement as provided 6840
in section 145.36 of the Revised Code. 6841

(2) "Disability allowance" means an allowance paid on account 6842

of disability under section 145.361 of the Revised Code. 6843

(3) "Disability benefit" means a benefit paid as disability 6844
retirement under section 145.36 of the Revised Code, as a 6845
disability allowance under section 145.361 of the Revised Code, or 6846
as a disability benefit under section 145.37 of the Revised Code. 6847

(4) "Disability benefit recipient" means a member who is 6848
receiving a disability benefit. 6849

(O) "Age and service retirement" means retirement as provided 6850
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of 6851
the Revised Code. 6852

(P) "Pensions" means annual payments for life derived from 6853
contributions made by the employer that at the time of retirement 6854
are credited into the annuity and pension reserve fund from the 6855
employers' accumulation fund and paid from the annuity and pension 6856
reserve fund as provided in this chapter. All pensions shall be 6857
paid in twelve equal monthly installments. 6858

(Q) "Retirement allowance" means the pension plus that 6859
portion of the benefit derived from contributions made by the 6860
member. 6861

(R)(1) Except as otherwise provided in division (R) of this 6862
section, "earnable salary" means all salary, wages, and other 6863
earnings paid to a contributor by reason of employment in a 6864
position covered by the retirement system. The salary, wages, and 6865
other earnings shall be determined prior to determination of the 6866
amount required to be contributed to the employees' savings fund 6867
under section 145.47 of the Revised Code and without regard to 6868
whether any of the salary, wages, or other earnings are treated as 6869
deferred income for federal income tax purposes. "Earnable salary" 6870
includes the following: 6871

(a) Payments made by the employer in lieu of salary, wages, 6872

or other earnings for sick leave, personal leave, or vacation used	6873
by the contributor;	6874
(b) Payments made by the employer for the conversion of sick	6875
leave, personal leave, and vacation leave accrued, but not used if	6876
the payment is made during the year in which the leave is accrued,	6877
except that payments made pursuant to section 124.383 or 124.386	6878
of the Revised Code are not earnable salary;	6879
(c) Allowances paid by the employer for full maintenance,	6880
consisting of housing, laundry, and meals, as certified to the	6881
retirement board by the employer or the head of the department	6882
that employs the contributor;	6883
(d) Fees and commissions paid under section 507.09 of the	6884
Revised Code;	6885
(e) Payments that are made under a disability leave program	6886
sponsored by the employer and for which the employer is required	6887
by section 145.296 of the Revised Code to make periodic employer	6888
and employee contributions;	6889
(f) Amounts included pursuant to divisions (K)(3) and (Y) of	6890
this section.	6891
(2) "Earnable salary" does not include any of the following:	6892
(a) Fees and commissions, other than those paid under section	6893
507.09 of the Revised Code, paid as sole compensation for personal	6894
services and fees and commissions for special services over and	6895
above services for which the contributor receives a salary;	6896
(b) Amounts paid by the employer to provide life insurance,	6897
sickness, accident, endowment, health, medical, hospital, dental,	6898
or surgical coverage, or other insurance for the contributor or	6899
the contributor's family, or amounts paid by the employer to the	6900
contributor in lieu of providing the insurance;	6901
(c) Incidental benefits, including lodging, food, laundry,	6902

parking, or services furnished by the employer, or use of the 6903
employer's property or equipment, or amounts paid by the employer 6904
to the contributor in lieu of providing the incidental benefits; 6905

(d) Reimbursement for job-related expenses authorized by the 6906
employer, including moving and travel expenses and expenses 6907
related to professional development; 6908

(e) Payments for accrued but unused sick leave, personal 6909
leave, or vacation that are made at any time other than in the 6910
year in which the sick leave, personal leave, or vacation was 6911
accrued; 6912

(f) Payments made to or on behalf of a contributor that are 6913
in excess of the annual compensation that may be taken into 6914
account by the retirement system under division (a)(17) of section 6915
401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 6916
U.S.C.A. 401(a)(17), as amended; 6917

(g) Payments made under division (B), (C), or (E) of section 6918
5923.05 of the Revised Code, Section 4 of Substitute Senate Bill 6919
No. 3 of the 119th general assembly, Section 3 of Amended 6920
Substitute Senate Bill No. 164 of the 124th general assembly, or 6921
Amended Substitute House Bill No. 405 of the 124th general 6922
assembly; 6923

(h) Anything of value received by the contributor that is 6924
based on or attributable to retirement or an agreement to retire, 6925
except that payments made on or before January 1, 1989, that are 6926
based on or attributable to an agreement to retire shall be 6927
included in earnable salary if both of the following apply: 6928

(i) The payments are made in accordance with contract 6929
provisions that were in effect prior to January 1, 1986; 6930

(ii) The employer pays the retirement system an amount 6931
specified by the retirement board equal to the additional 6932

liability resulting from the payments. 6933

(3) The retirement board shall determine by rule whether any 6934
compensation not enumerated in division (R) of this section is 6935
earnable salary, and its decision shall be final. 6936

(S) "Pension reserve" means the present value, computed upon 6937
the basis of the mortality and other tables adopted by the board, 6938
of all payments to be made on account of any retirement allowance 6939
or benefit in lieu of any retirement allowance, granted to a 6940
member or beneficiary under this chapter. 6941

(T)(1) "Contributing service" means all service credited to a 6942
member of the system since January 1, 1935, for which 6943
contributions are made as required by sections 145.47, 145.48, and 6944
145.483 of the Revised Code. In any year subsequent to 1934, 6945
credit for any service shall be allowed by the following formula: 6946

(a) For each month for which the member's earnable salary is 6947
two hundred fifty dollars or more, allow one month's credit. 6948

(b) For each month for which the member's earnable salary is 6949
less than two hundred fifty dollars, allow a fraction of a month's 6950
credit. The numerator of this fraction shall be the earnable 6951
salary during the month, and the denominator shall be two hundred 6952
fifty dollars, except that if the member's annual earnable salary 6953
is less than six hundred dollars, the member's credit shall not be 6954
reduced below twenty per cent of a year for a calendar year of 6955
employment during which the member worked each month. Division 6956
(T)(1)(b) of this section shall not reduce any credit earned 6957
before January 1, 1985. 6958

(2) Notwithstanding division (T)(1) of this section, an 6959
elected official who prior to January 1, 1980, was granted a full 6960
year of credit for each year of service as an elected official 6961
shall be considered to have earned a full year of credit for each 6962
year of service regardless of whether the service was full-time or 6963

part-time. The public employees retirement board has no authority 6964
to reduce the credit. 6965

(U) "State retirement board" means the public employees 6966
retirement board, the school employees retirement board, or the 6967
state teachers retirement board. 6968

(V) "Retirant" means any former member who retires and is 6969
receiving a monthly allowance as provided in sections 145.32, 6970
145.33, 145.331, 145.34, and 145.46 of the Revised Code. 6971

(W) "Employer contribution" means the amount paid by an 6972
employer as determined under section 145.48 of the Revised Code. 6973

(X) "Public service terminates" means the last day for which 6974
a public employee is compensated for services performed for an 6975
employer or the date of the employee's death, whichever occurs 6976
first. 6977

(Y) When a member has been elected or appointed to an office, 6978
the term of which is two or more years, for which an annual salary 6979
is established, and in the event that the salary of the office is 6980
increased and the member is denied the additional salary by reason 6981
of any constitutional provision prohibiting an increase in salary 6982
during a term of office, the member may elect to have the amount 6983
of the member's contributions calculated upon the basis of the 6984
increased salary for the office. At the member's request, the 6985
board shall compute the total additional amount the member would 6986
have contributed, or the amount by which each of the member's 6987
contributions would have increased, had the member received the 6988
increased salary for the office the member holds. If the member 6989
elects to have the amount by which the member's contribution would 6990
have increased withheld from the member's salary, the member shall 6991
notify the employer, and the employer shall make the withholding 6992
and transmit it to the retirement system. A member who has not 6993
elected to have that amount withheld may elect at any time to make 6994

a payment to the retirement system equal to the additional amount 6995
the member's contribution would have increased, plus interest on 6996
that contribution, compounded annually at a rate established by 6997
the board and computed from the date on which the last 6998
contribution would have been withheld from the member's salary to 6999
the date of payment. A member may make a payment for part of the 7000
period for which the increased contribution was not withheld, in 7001
which case the interest shall be computed from the date the last 7002
contribution would have been withheld for the period for which the 7003
payment is made. Upon the payment of the increased contributions 7004
as provided in this division, the increased annual salary as 7005
provided by law for the office for the period for which the member 7006
paid increased contributions thereon shall be used in determining 7007
the member's earnable salary for the purpose of computing the 7008
member's final average salary. 7009

(Z) "Five years of service credit," for the exclusive purpose 7010
of satisfying the service credit requirements and of determining 7011
eligibility for benefits under section 145.33 of the Revised Code, 7012
means employment covered under this chapter or under a former 7013
retirement plan operated, recognized, or endorsed by the employer 7014
prior to coverage under this chapter or under a combination of the 7015
coverage. 7016

(AA) "Deputy sheriff" means any person who is commissioned 7017
and employed as a full-time peace officer by the sheriff of any 7018
county, and has been so employed since on or before December 31, 7019
1965, and whose primary duties are to preserve the peace, to 7020
protect life and property, and to enforce the laws of this state; 7021
any person who is or has been commissioned and employed as a peace 7022
officer by the sheriff of any county since January 1, 1966, and 7023
who has received a certificate attesting to the person's 7024
satisfactory completion of the peace officer training school as 7025
required by section 109.77 of the Revised Code and whose primary 7026

duties are to preserve the peace, protect life and property, and
enforce the laws of this state; or any person deputized by the
sheriff of any county and employed pursuant to section 2301.12 of
the Revised Code as a criminal bailiff or court constable 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.

(BB) "Township constable or police officer in a township
police department or district" means any person who is
commissioned and employed as a full-time peace officer pursuant to
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. 7058
7059

(EE) "Natural resources law enforcement staff officer" means 7060
a full-time employee of the department of natural resources who is 7061
designated a natural resources law enforcement staff officer under 7062
section 1501.013 of the Revised Code and is in compliance with 7063
section 109.77 of the Revised Code. 7064

(FF) "Park officer" means a full-time employee of the 7065
department of natural resources who is designated a park officer 7066
under section 1541.10 of the Revised Code and is in compliance 7067
with section 109.77 of the Revised Code. 7068

(GG) "Forest officer" means a full-time employee of the 7069
department of natural resources who is designated a forest officer 7070
under section 1503.29 of the Revised Code and is in compliance 7071
with section 109.77 of the Revised Code. 7072

(HH) "Preserve officer" means a full-time employee of the 7073
department of natural resources who is designated a preserve 7074
officer under section 1517.10 of the Revised Code and is in 7075
compliance with section 109.77 of the Revised Code. 7076

(II) "Wildlife officer" means a full-time employee of the 7077
department of natural resources who is designated a wildlife 7078
officer under section 1531.13 of the Revised Code and is in 7079
compliance with section 109.77 of the Revised Code. 7080

(JJ) "State watercraft officer" means a full-time employee of 7081
the department of natural resources who is designated a state 7082
watercraft officer under section 1547.521 of the Revised Code and 7083
is in compliance with section 109.77 of the Revised Code. 7084

(KK) "Park district police officer" means a full-time 7085
employee of a park district who is designated pursuant to section 7086
511.232 or 1545.13 of the Revised Code and is in compliance with 7087

section 109.77 of the Revised Code. 7088

(LL) "Conservancy district officer" means a full-time 7089
employee of a conservancy district who is designated pursuant to 7090
section 6101.75 of the Revised Code and is in compliance with 7091
section 109.77 of the Revised Code. 7092

(MM) "Municipal police officer" means a member of the 7093
organized police department of a municipal corporation who is 7094
employed full-time, is in compliance with section 109.77 of the 7095
Revised Code, and is not a member of the Ohio police and fire 7096
pension fund. 7097

(NN) "Veterans' home police officer" means any person who is 7098
employed at a veterans' home as a police officer pursuant to 7099
section 5907.02 of the Revised Code and is in compliance with 7100
section 109.77 of the Revised Code. 7101

(OO) "Special police officer for a mental health institution" 7102
means any person who is designated as such pursuant to section 7103
5119.14 of the Revised Code and is in compliance with section 7104
109.77 of the Revised Code. 7105

(PP) "Special police officer for an institution for the 7106
mentally retarded and developmentally disabled" means any person 7107
who is designated as such pursuant to section 5123.13 of the 7108
Revised Code and is in compliance with section 109.77 of the 7109
Revised Code. 7110

(QQ) "State university law enforcement officer" means any 7111
person who is employed full-time as a state university law 7112
enforcement officer pursuant to section 3345.04 of the Revised 7113
Code and who is in compliance with section 109.77 of the Revised 7114
Code. 7115

(RR) "House sergeant at arms" means any person appointed by 7116
the speaker of the house of representatives under division (B)(1) 7117

of section 101.311 of the Revised Code who has arrest authority 7118
under division (E)(1) of that section. 7119

(SS) "Assistant house sergeant at arms" means any person 7120
appointed by the house sergeant at arms under division (C)(1) of 7121
section 101.311 of the Revised Code. 7122

(TT) "Regional transit authority police officer" means a 7123
person who is employed full time as a regional transit authority 7124
police officer under division (Y) of section 306.35 of the Revised 7125
Code and is in compliance with section 109.77 of the Revised Code. 7126

(UU) "State highway patrol police officer" means a special 7127
police officer employed full time and designated by the 7128
superintendent of the state highway patrol pursuant to section 7129
5503.09 of the Revised Code or a person serving full time as a 7130
special police officer pursuant to that section on a permanent 7131
basis on October 21, 1997, who is in compliance with section 7132
109.77 of the Revised Code. 7133

(VV) "Municipal public safety director" means a person who 7134
serves full-time as the public safety director of a municipal 7135
corporation with the duty of directing the activities of the 7136
municipal corporation's police department and fire department. 7137

(WW) Notwithstanding section 2901.01 of the Revised Code, 7138
"PERS law enforcement officer" means a sheriff, deputy sheriff, 7139
township constable or police officer in a township police 7140
department or district, drug agent, municipal public safety 7141
director, department of public safety enforcement agent, natural 7142
resources law enforcement staff officer, park officer, forest 7143
officer, preserve officer, wildlife officer, state watercraft 7144
officer, park district police officer, conservancy district 7145
officer, veterans' home police officer, special police officer for 7146
a mental health institution, special police officer for an 7147
institution for the mentally retarded and developmentally 7148

disabled, state university law enforcement officer, municipal 7149
police officer, house sergeant at arms, assistant house sergeant 7150
at arms, regional transit authority police officer, or state 7151
highway patrol police officer. 7152

~~(WW)~~(XX) "Hamilton county municipal court bailiff" means a 7153
person appointed by the clerk of courts of the Hamilton county 7154
municipal court under division (A)(3) of section 1901.32 of the 7155
Revised Code who is employed full time as a bailiff or deputy 7156
bailiff, who has received a certificate attesting to the person's 7157
satisfactory completion of the peace officer basic training 7158
described in division (D)(1) of section 109.77 of the Revised 7159
Code, and whose primary duties are to preserve the peace, to 7160
protect life and property, and to enforce the laws of this state. 7161

~~(XX)~~(YY) "Fiduciary" means a person who does any of the 7162
following: 7163

(1) Exercises any discretionary authority or control with 7164
respect to the management of the system or with respect to the 7165
management or disposition of its assets; 7166

(2) Renders investment advice for a fee, direct or indirect, 7167
with respect to money or property of the system; 7168

(3) Has any discretionary authority or responsibility in the 7169
administration of the system. 7170

~~(YY)~~(ZZ) "Actuary" means an individual who satisfies all of 7171
the following requirements: 7172

(1) Is a member of the American academy of actuaries; 7173

(2) Is an associate or fellow of the society of actuaries; 7174

(3) Has a minimum of five years' experience in providing 7175
actuarial services to public retirement plans. 7176

~~(ZZ)~~(AAA) "PERS defined benefit plan" means the plan 7177
described in sections 145.201 to 145.79 of the Revised Code. 7178

~~(AAA)~~(BBB) "PERS defined contribution plans" means the plan 7179
or plans established under section 145.81 of the Revised Code. 7180

Sec. 145.33. (A) Except as provided in division (B) or (C) of 7181
this section, a member with at least five years of total service 7182
credit who has attained age sixty, or who has thirty years of 7183
total Ohio service credit, may apply for age and service 7184
retirement, which shall consist of: 7185

(1) An annuity having a reserve equal to the amount of the 7186
member's accumulated contributions at that time; 7187

(2) A pension equal to the annuity provided by division 7188
(A)(1) of this section; 7189

(3) An additional pension, if the member can qualify for 7190
prior service, equal to forty dollars multiplied by the number of 7191
years, and fraction thereof, of such prior and military service 7192
credit; 7193

(4) A basic annual pension equal to one hundred eighty 7194
dollars if the member has ten or more years of total service 7195
credit as of October 1, 1956, except that the basic annual pension 7196
shall not exceed the sum of the annual benefits provided by 7197
divisions (A)(1), (2), and (3) of this section. 7198

(5) When a member retires on age and service retirement, the 7199
member's total annual single lifetime allowance, including the 7200
allowances provided in divisions (A)(1), (2), (3), and (4) of this 7201
section, shall be not less than a base amount adjusted in 7202
accordance with division (A)(5) of this section and determined by 7203
multiplying the member's total service credit by the greater of 7204
the following: 7205

(a) Eighty-six dollars; 7206

(b) Two and two-tenths per cent of the member's final average 7207
salary for each of the first thirty years of service plus two and 7208

one-half per cent of the member's final average salary for each 7209
subsequent year of service. 7210

The allowance shall be adjusted by the factors of attained 7211
age or years of service to provide the greater amount as 7212
determined by the following schedule: 7213

Attained	or	Years of Total Service Credit	Percentage of Base Amount	
58		25	75	7214
				7215
59		26	80	7216
60		27	85	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 7227
the following schedule, based on the member's attained age by 7228
September 1, 1976: 7229

Attained Birthday	Percentage of Base Amount	
66	102	7230
67	104	7231
68	106	7232
69	108	7233
70 or more	110	7234

(6) The total annual single lifetime allowance that a member 7238
shall receive under division (A)(5) of this section shall not 7239
exceed the lesser of one hundred per cent of the member's final 7240

average salary or the limit established by section 415 of the 7241
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, 7242
as amended. 7243

(B)(1) For the purposes of divisions (B) to (G) of this 7244
section, "total service credit as a PERS law enforcement officer" 7245
and "total service credit as a Hamilton county municipal court 7246
bailiff" include credit for military service to the extent 7247
permitted by division (E)(2) of this section and credit for 7248
service as a police officer or state highway patrol trooper to the 7249
extent permitted by divisions (E)(3) and (4) of this section. 7250

(2) A member who meets the conditions in division (B)(2)(a), 7251
(b), (c), or (d) of this section may apply for an age and service 7252
retirement benefit under this division: 7253

(a) The member has attained age forty-eight and has at least 7254
twenty-five years of total service credit as a PERS law 7255
enforcement officer whose primary duties were to preserve the 7256
peace, protect life and property, and enforce the laws in the 7257
member's jurisdiction; 7258

(b) The member has attained age fifty-two, and has at least 7259
twenty-five years of total service credit as a PERS law 7260
enforcement officer, but the member's primary duties were other 7261
than to preserve the peace, protect life and property, and enforce 7262
the laws in the member's jurisdiction; 7263

(c) The member has attained age fifty-two and has at least 7264
twenty-five years of total service as a Hamilton county municipal 7265
court bailiff; 7266

(d) The member has attained age sixty-two and has at least 7267
fifteen years of total service credit as either of the following: 7268

(i) A PERS law enforcement officer; 7269

(ii) A Hamilton county municipal court bailiff. 7270

(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.

(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 habits, or conviction of a felony may apply for an age and service retirement benefit, which shall consist of an annual single lifetime allowance equal to one and one-half per cent of the member's final average salary multiplied by the number of years of the member's total service credit. The allowance shall commence on the first day of the calendar month following the month in which the application is filed with the public employees retirement board on or after the attainment by the applicant of age fifty-two.

(C)(1) A member with at least twenty-five years of total service credit who would be eligible to retire under division (B)(2)(b) or (c) of this section had the member attained age fifty-two and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after the date of attaining forty-eight years of age, but before the date of attaining fifty-two years of age, may elect to receive a reduced benefit as determined by the following schedule:

Attained Age	Reduced Benefit	
48	75% of the benefit payable under division (B)(3) of this section	

49	80% of the benefit payable under	7303
	division (B)(3) of this section	7304
50	86% of the benefit payable under	7305
	division (B)(3) of this section	7306
51	93% of the benefit payable under	7307
	division (B)(3) of this section	7308

(2) If a member elects to receive a reduced benefit after 7309
attaining age forty-eight the reduced benefit is payable from the 7310
later of the date of the member's most recent birthday or the date 7311
the member becomes eligible to receive the reduced benefit. 7312

(3) Once a member elects to receive a reduced benefit 7313
determined by the schedule in division (C)(1) of this section and 7314
has received a payment, the member may not reelect to change that 7315
election. 7316

(4) If a member who has resigned or been discharged has left 7317
on deposit the member's accumulated contributions in the 7318
employees' savings fund and has not elected to receive a reduced 7319
benefit determined by the schedule in division (C)(1) of this 7320
section, upon attaining fifty-two years of age, the member shall 7321
be entitled to receive a benefit computed and paid under division 7322
(B)(3) of this section. 7323

(D) A benefit paid under division (B) or (C) of this section 7324
shall not exceed the lesser of ninety per cent of the member's 7325
final average salary or the limit established by section 415 of 7326
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 7327
415, as amended. 7328

(E)(1) A member with service credit as a PERS law enforcement 7329
officer or a Hamilton county municipal court bailiff and other 7330
service credit under this chapter may elect one of the following: 7331

(a) To have all the member's service credit under this 7332
chapter, including credit for service as a PERS law enforcement 7333

officer or Hamilton county municipal court bailiff, used in 7334
calculating a retirement allowance under division (A) of this 7335
section if the member qualifies for an allowance under that 7336
division; 7337

(b) If the member qualifies for an allowance under division 7338
(B) or (C) of this section, to have the member's service credit as 7339
a PERS law enforcement officer or Hamilton county municipal court 7340
bailiff used in calculating a benefit under the appropriate 7341
division and the member's credit for all service other than PERS 7342
law enforcement service or service as a Hamilton county municipal 7343
court bailiff under this chapter used in calculating a benefit 7344
consisting of a single life annuity having a reserve equal to the 7345
amount of the member's accumulated contributions and an equal 7346
amount of the employer's contributions. 7347

(2) Notwithstanding sections 145.01 and 145.30 of the Revised 7348
Code, no more than four years of military service credit granted 7349
under section 145.30 of the Revised Code and five years of 7350
military service credit purchased under section 145.301 or 145.302 7351
of the Revised Code shall be used in calculating service as a PERS 7352
law enforcement officer or Hamilton county municipal court bailiff 7353
or the total service credit of that person. 7354

(3) Only credit for the member's service as a PERS law 7355
enforcement officer or service credit obtained as a police officer 7356
or state highway patrol trooper shall be used in computing the 7357
benefit of a member who qualifies for a benefit under division 7358
(B)(2)(a), (b), or (d)(ii) or (4) or division (C) of this section 7359
for the following: 7360

(a) Any person who originally is commissioned and employed as 7361
a deputy sheriff by the sheriff of any county, or who originally 7362
is elected sheriff, on or after January 1, 1975; 7363

(b) Any deputy sheriff who originally is employed as a 7364

criminal bailiff or court constable on or after April 16, 1993;	7365
(c) Any person who originally is appointed as a township constable or police officer in a township police department or district on or after January 1, 1981;	7366 7367 7368
(d) Any person who originally is employed as a county narcotics agent on or after September 26, 1984;	7369 7370
(e) Any person who originally is employed as an undercover drug agent as defined in section 109.79 of the Revised Code, department of public safety enforcement agent who prior to June 30, 1999, was a liquor control investigator, park officer, forest officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, or municipal police officer on or after December 15, 1988;	7371 7372 7373 7374 7375 7376 7377 7378 7379 7380
(f) Any person who originally is employed as a state university law enforcement officer on or after November 6, 1996;	7381 7382
(g) Any person who is originally employed as a state university law enforcement officer by the university of Akron on or after September 16, 1998;	7383 7384 7385
(h) Any person who originally is employed as a preserve officer on or after March 18, 1999;	7386 7387
(i) Any person who originally is employed as a natural resources law enforcement staff officer on or after March 18, 1999;	7388 7389 7390
(j) Any person who is originally employed as a department of public safety enforcement agent on or after June 30, 1999;	7391 7392
(k) Any person who is originally employed as a house sergeant at arms or assistant house sergeant at arms on or after September	7393 7394

5, 2001; 7395

(1) Any person who is originally appointed as a regional transit authority police officer or state highway patrol police officer on or after February 1, 2002; 7396
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7398

(m) Any person who is originally employed as a municipal public safety director on or after the effective date of this amendment. 7399
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7401

(4) Only credit for a member's service as a Hamilton county municipal court bailiff or service credit obtained as a PERS law enforcement officer, police officer, or state highway patrol trooper shall be used in computing the benefit of a member who qualifies for a benefit under division (B)(2)(c) or (d)(ii) or (4) or division (C) of this section for any person who originally is employed as a Hamilton county municipal court bailiff on or after November 6, 1996. 7402
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(F) Retirement allowances determined under this section shall be paid as provided in section 145.46 of the Revised Code. 7410
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(G) For the purposes of this section, service prior to June 30, 1999, as a food stamp trafficking agent under former section 5502.14 of the Revised Code shall be considered service as a law enforcement officer. 7412
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Sec. 147.05. (A) Before entering upon the duties of the office of notary public, a notary public shall leave the notary public's commission with the oath endorsed on the commission with the clerk of the court of common pleas of the county in which the notary public resides. The clerk shall record the commission in a book kept for that purpose. The clerk shall endorse on the margin of the record and on the back of the commission the time that the clerk received the commission for record and make a proper index to all commissions so recorded. For recording and indexing a 7416
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commission, the fee of the clerk shall be as provided in division 7425
(R) of section 2303.20 of the Revised Code. 7426

(B) The secretary of state shall maintain a record of the 7427
commissions of each notary public appointed and commissioned by 7428
the secretary of state under this chapter and make a proper index 7429
to that record. 7430

The governor's office shall transfer to the secretary of 7431
state's office, on or after ~~the effective date of this amendment~~ 7432
June 6, 2001, the record of notaries public formerly kept by the 7433
governor's office under section 107.10 of the Revised Code. The 7434
secretary of state's office shall maintain that record together 7435
with the record and index of commissions of notaries public 7436
required by this division. 7437

(C) If a notary public legally changes the notary public's 7438
name or address after having been commissioned as a notary public, 7439
the notary public shall notify the secretary of state and the 7440
appropriate clerk of courts within thirty days after the name or 7441
address change. Notification to the secretary of state shall be on 7442
a form prescribed by the secretary of state. 7443

(D) A notary, other than an attorney, who resigns the 7444
person's commission shall deliver to the secretary of state, on a 7445
form prescribed by the secretary of state, a written notice 7446
indicating the effective date of resignation. 7447

Sec. 147.10. No notary public shall do or perform any act as 7448
a notary public knowing that ~~his~~ the notary public's term of 7449
office has expired or that the notary public has resigned the 7450
notary public's commission. 7451

Sec. 147.11. A person appointed notary public who performs 7452
any act as such after the expiration of ~~his~~ the person's term of 7453
office or after the person resigns the person's commission, 7454

knowing that ~~his~~ the person's term has expired or that the person 7455
has resigned, shall forfeit not more than five hundred dollars, to 7456
be recovered by an action in the name of the state. Such act shall 7457
render ~~such~~ the person ineligible for reappointment. 7458

Sec. 147.12. An official act done by a notary public after 7459
the expiration of ~~his~~ the notary public's term of office or after 7460
the notary public resigns the notary public's commission is as 7461
valid as if done during ~~his~~ the notary public's term of office. 7462

Sec. 147.371. (A) Upon receipt of a fee of two dollars and an 7463
affidavit that the original commission of a notary public has been 7464
lost or destroyed, a duplicate commission as notary public shall 7465
be issued by the secretary of state. 7466

(B) Upon receipt of a fee of two dollars and the properly 7467
completed, prescribed form for a name and address change under 7468
division (C) of section 147.05 of the Revised Code, the secretary 7469
of state shall issue a duplicate commission as a notary public. 7470

Sec. 150.07. (A) For the purpose stated in section 150.01 of 7471
the Revised Code, the authority may authorize a lender to claim 7472
one of the tax credits allowed under section 5707.031, 5725.19, 7473
5727.241, 5729.08, 5733.49, or 5747.80 of the Revised Code. The 7474
credits shall be authorized by a written contract with the lender. 7475
The contract shall specify the terms under which the lender may 7476
claim the credit, including the amount of loss, if any, the lender 7477
must incur before the lender may claim the credit; specify that 7478
the credit shall not exceed the amount of the loss; and specify 7479
that the lender may claim the credit only for a loss certified by 7480
a program administrator to the authority under the procedures 7481
prescribed under division (B)(6) of section 150.05 of the Revised 7482
Code. 7483

(B) Tax credits may be authorized at any time after the 7484

authority establishes the investment policy under section 150.03 7485
of the Revised Code, but a tax credit so authorized may not be 7486
claimed until the beginning of the fifth year after the authority 7487
establishes the investment policy. A tax credit may not be claimed 7488
after June 30, 2026. 7489

(C) Upon receiving certification of a lender's loss from a 7490
program administrator pursuant to the procedures in the investment 7491
policy, the authority shall issue a tax credit certificate to the 7492
lender, except as otherwise provided in division (D) of this 7493
section. The authority shall not issue a certificate until the 7494
lender, in the manner prescribed by the authority, elects to 7495
receive a refundable or nonrefundable tax credit. The election, 7496
once made, is irrevocable. The certificate shall state the amount 7497
of the credit, whether the credit is refundable or nonrefundable, 7498
and the calendar year, under section 5707.031, 5725.19, 5727.241, 7499
or 5729.08, the tax year, under section 5733.49, or the taxable 7500
year under section 5747.80 of the Revised Code, for which the 7501
credit may be claimed. The authority, in conjunction with the tax 7502
commissioner, shall develop a system for issuing tax credit 7503
certificates for the purpose of verifying that any credit claimed 7504
is a credit issued under this section and is properly taken in the 7505
year specified in the certificate and in compliance with division 7506
(B) of this section. 7507

(D) The authority shall not, in any fiscal year, issue tax 7508
credit certificates in a total amount exceeding twenty million 7509
dollars. 7510

Sec. 150.10. (A) On the first day of January of the second 7511
year after the date of entering into an agreement under section 7512
150.05 of the Revised Code and of each ensuing year, the authority 7513
shall file with the clerk of the house of representatives, the 7514
clerk of the senate, and the chairpersons of the house and senate 7515

standing committees predominantly concerned with economic 7516
development a written report on the Ohio venture capital program. 7517
The report shall include all the following: 7518

(1) A description of the details of the investment policy 7519
established or modified in accordance with sections 150.03 and 7520
150.04 of the Revised Code; 7521

(2) The authority's assessment of the program's achievement 7522
of its purpose stated in section 150.01 of the Revised Code; 7523

(3) The value of tax credit certificates issued by the 7524
authority under section 150.07 of the Revised Code in each fiscal 7525
year ending on or before the preceding thirtieth day of June; 7526

(4) The amount of tax credits claimed pursuant to section 7527
5707.031, 5725.19, 5727.241, 5729.08, 5733.49, or 5747.80 of the 7528
Revised Code, as to the respective taxes involved; 7529

(5) The financial status of the Ohio venture capital fund; 7530

(6) The names of venture capital funds in which money from 7531
the program fund has been invested and the locations of their 7532
principal offices, and the names of the enterprises in which each 7533
of those venture capital funds has invested such money and the 7534
locations of those enterprises' principal offices; 7535

(7) Any recommendations for modifying the program to better 7536
achieve the purpose stated in section 150.01 of the Revised Code. 7537

(B) During each year that a report is issued under division 7538
(A) of this section, the chairperson of the authority, or another 7539
member of the authority designated by the chairperson as the 7540
authority's representative, shall be required to appear in person 7541
before the standing committees of the house and senate 7542
predominantly concerned with economic development to give 7543
testimony concerning the status of the Ohio venture capital 7544
program. 7545

Sec. 153.44. Before work is done or material furnished, all 7546
~~contracts~~ the board of county commissioners shall submit each 7547
contract that exceed exceeds one thousand dollars in amount ~~shall~~ 7548
~~be submitted by the board of county commissioners~~ to the 7549
prosecuting attorney of the county. If ~~found by him~~ the 7550
prosecuting attorney finds the contract to be in accordance with 7551
~~sections 153.01 to 153.60, inclusive, of the Revised Code~~ this 7552
chapter, and ~~his~~ the prosecuting attorney's certificate to that 7553
effect is ~~indorsed thereon~~ endorsed on the contract, ~~such~~ 7554
~~contracts~~ the contract shall have full force and effect, ~~otherwise~~ 7555
~~they shall be void.~~ 7556

Sec. 153.692. Upon the selection of a professional design 7557
firm pursuant to sections 153.65 to 153.71 of the Revised Code, 7558
the public authority shall submit the awarded contract for design 7559
services to its legal counsel. If the legal counsel determines 7560
that the contract was awarded in accordance with those sections, 7561
and the legal counsel's certificate to that effect is endorsed on 7562
the contract, the contract shall have full force and effect. 7563

Sec. 173.39. As used in sections 173.39 to 173.397 of the 7564
Revised Code, "community-based long-term care services" has the 7565
same meaning as in section 173.14 of the Revised Code. 7566

The department of aging may not pay a person or government 7567
entity for providing community-based long-term care services under 7568
a program the department administers unless the person or 7569
government entity is certified under section 173.391 of the 7570
Revised Code, contracts with the department or the department's 7571
designee to provide the services, and provides the services. 7572

Sec. 173.391. The department of aging or its designee shall 7573
do all of the following in accordance with Chapter 119. of the 7574

<u>Revised Code:</u>	7575
<u>(A) Certify a person or government entity to provide</u>	7576
<u>community-based long-term care services under a program the</u>	7577
<u>department administers if the person or government entity</u>	7578
<u>satisfies the requirements for certification established by rules</u>	7579
<u>adopted under section 173.393 of the Revised Code and pays the</u>	7580
<u>certification fee established in those rules;</u>	7581
<u>(B) When required to do so by rules adopted under section</u>	7582
<u>173.393 of the Revised Code, take one or more of the following</u>	7583
<u>disciplinary actions against a person or government entity issued</u>	7584
<u>a certificate under division (A) of this section:</u>	7585
<u>(1) Issue a written warning;</u>	7586
<u>(2) Require the submission of a plan of correction;</u>	7587
<u>(3) Suspend referrals;</u>	7588
<u>(4) Remove clients;</u>	7589
<u>(5) Impose a fiscal sanction such as a civil monetary penalty</u>	7590
<u>or an order that unearned funds be repaid;</u>	7591
<u>(6) Revoke the certificate;</u>	7592
<u>(7) Impose another sanction.</u>	7593
<u>(C) Hold hearings when there is a dispute between the</u>	7594
<u>department or its designee and a person or government entity</u>	7595
<u>concerning actions the department or its designee takes or does</u>	7596
<u>not take under division (A) or (B) of this section.</u>	7597
<u>Sec. 173.392. There is hereby created in the state treasury</u>	7598
<u>the community-based long-term care provider certification fund.</u>	7599
<u>All fees collected under section 173.391 of the Revised Code shall</u>	7600
<u>be deposited into the fund. The department of aging shall use the</u>	7601
<u>money in the fund to implement sections 173.39 to 173.397 of the</u>	7602

Revised Code.

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Sec. 173.393. The director of aging shall adopt rules under Chapter 119. of the Revised Code concerning all of the following:

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(A) Requirements a person or government entity must satisfy to obtain a certificate under section 173.391 of the Revised Code;

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(B) The fee for obtaining the certificate;

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(C) Procedures for ensuring that PASSPORT agencies, as defined in section 173.41 of the Revised Code, comply with that section;

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(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;

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(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;

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(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;

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(G) The department's payment for community-based long-term care services provided under a contract described in division (F) of this section.

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Sec. 173.394. 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.

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Sec. 173.395. The procedures established in rules adopted 7631
under division (D) of section 173.393 of the Revised Code shall 7632
require that all of the following be considered as part of an 7633
evaluation: 7634

(A) The service provider's experience and financial 7635
responsibility; 7636

(B) The service provider's ability to comply with standards 7637
for the community-based long-term care services that the provider 7638
provides under a program the department of aging administers; 7639

(C) The service provider's ability to meet the needs of the 7640
individuals served; 7641

(D) Any other factor the director of aging considers 7642
relevant. 7643

Sec. 173.396. The rules adopted under division (E) of section 7644
173.393 of the Revised Code shall specify that the reasons 7645
disciplinary action may be taken under division (B) of section 7646
173.391 of the Revised Code include good cause, including 7647
misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, 7648
financial irresponsibility, or other conduct the director of aging 7649
determines is injurious to the health or safety of individuals 7650
being served. 7651

Sec. 173.397. The records of an evaluation conducted in 7652
accordance with rules adopted under division (D) of section 7653
173.393 of the Revised Code are public records for purposes of 7654
section 149.43 of the Revised Code and shall be made available on 7655
request of any person, including individuals receiving or seeking 7656
community-based long-term care services under a program the 7657
department of aging administers. 7658

Sec. 173.40. There is hereby created a medicaid waiver 7659
component ~~of the medicaid program established under Chapter 5111.~~ 7660
as defined in section 5111.85 of the Revised Code, to be known as 7661
the preadmission screening system providing options and resources 7662
today program, or PASSPORT. The PASSPORT program shall provide 7663
home and community-based services as an alternative to nursing 7664
facility placement for aged and disabled medicaid recipients. The 7665
program shall be operated pursuant to a home and community-based 7666
waiver granted by the United States secretary of health and human 7667
services under section 1915 of the "Social Security Act," 49 Stat. 7668
620 (1935), 42 U.S.C. 1396n, as amended. The department of aging 7669
shall administer the program through a contract entered into with 7670
the department of job and family services under section 5111.91 of 7671
the Revised Code. The ~~directors~~ director of ~~aging and~~ job and 7672
family services shall adopt rules under section 5111.85 of the 7673
Revised Code and the director of aging shall adopt rules in 7674
accordance with Chapter 119. of the Revised Code to implement the 7675
program. 7676

Sec. ~~5101.75~~ 173.42. (A) As used in ~~sections 5101.75,~~ 7677
~~5101.751, 5101.752, 5101.753, and 5101.754~~ of the Revised Code 7678
this section: 7679

(1) "~~Alternative source of long term care~~" includes a 7680
~~residential care facility licensed under Chapter 3721. of the~~ 7681
~~Revised Code, an adult care facility licensed under Chapter 3722.~~ 7682
~~of the Revised Code, home and community based services, and a~~ 7683
~~nursing home licensed under Chapter 3721. of the Revised Code that~~ 7684
~~is not a nursing facility~~ Area agency on aging" means a public or 7685
private nonprofit entity designated under section 173.011 of the 7686
Revised Code to administer programs on behalf of the department of 7687
aging. 7688

(2) "Medicaid" means the medical assistance program 7689
established under Chapter 5111. of the Revised Code. 7690

(3) "Nursing facility" has the same meaning as in section 7691
5111.20 of the Revised Code. 7692

(4) "Representative" means a person acting on behalf of an 7693
~~applicant~~ individual seeking information on long-term care 7694
services, applying for admission to a nursing facility, or 7695
residing in a nursing facility. A representative may be a family 7696
member, attorney, hospital social worker, or any other person 7697
chosen to act on behalf of ~~an applicant~~ the individual. 7698

~~(5) "Third party payment source" means a third party payer as~~ 7699
~~defined in section 3901.38 of the Revised Code or medicaid.~~ 7700

~~(B) Effective July 1, 1994, the department of job and family~~ 7701
~~services may assess a person applying or intending to apply for~~ 7702
~~admission to a nursing facility who is not an applicant for or~~ 7703
~~recipient of medicaid to determine whether the person is in need~~ 7704
~~of nursing facility services and whether an alternative source of~~ 7705
~~long term care is more appropriate for the person in meeting the~~ 7706
~~person's physical, mental, and psychosocial needs than admission~~ 7707
~~to the facility to which the person has applied.~~ 7708

~~Each assessment shall be performed by the department or an~~ 7709
~~agency designated by the department under section 5101.751 of the~~ 7710
~~Revised Code and shall be based on information provided by the~~ 7711
~~person or the person's representative. It shall consider the~~ 7712
~~person's physical, mental, and psychosocial needs and the~~ 7713
~~availability and effectiveness of informal support and care. The~~ 7714
~~department or designated agency shall determine the person's~~ 7715
~~physical, mental, and psychosocial needs by using, to the maximum~~ 7716
~~extent appropriate, information from the resident assessment~~ 7717
~~instrument specified in rules adopted by the department under~~ 7718
~~division (A) of section 5111.231 of the Revised Code. The~~ 7719

~~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~~ 7720
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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. 7723
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(2) The department may enter into a contract with an area
agency on aging or other entity selected by the department under
which the long-term care consultation program for a particular
area is administered by the area agency on aging or other entity
pursuant to the contract. 7730
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(C) The long-term care consultations performed for purposes
of this section shall be performed only by persons individuals
certified by the department under section 5101.752 173.43 of the
Revised Code. The department or designated agency shall make a
recommendation on the basis of the assessment and, not later than
the time the assessment is required to be performed under division
(D) of this section, give the person assessed written notice of
the recommendation, which shall explain the basis for the
recommendation. If the department or designated agency determines
pursuant to an assessment that an alternative source of long term
care is more appropriate for the person than admission to the
facility to which the person has applied, the department or
designated agency shall include in the notice possible sources of
financial assistance for the alternative source of long term care.
If the department or designated agency has been informed that the
person has a representative, it shall give the notice to the
representative. 7735
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~~(C) A person~~ (D) The information provided through a long-term care consultation shall be appropriate to the individual's needs and situation and shall address all of the following: 7752
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(1) The availability of any long-term care options open to the individual; 7755
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(2) Sources and methods of both public and private payment for long-term care services; 7757
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(3) Factors to consider when choosing among the available programs, services, and benefits; 7759
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(4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family, friends, and community. 7761
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(E) An individual's long-term care consultation may include an assessment of the individual's functional capabilities. The consultation may incorporate portions of the determinations required under sections 5111.202, 5119.061, and 5123.021 of the Revised Code and may be performed concurrently with the assessment required under section 5111.204 of the Revised Code. 7764
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(F)(1) Unless an individual is exempt pursuant to division (H) of this section from receiving a long-term care consultation, a long-term care consultation shall be performed for both of the following: 7770
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(a) Each individual who applies or indicates an intention to apply for admission to a nursing facility, regardless of the source of payment to be used for the individual's care in the nursing facility; 7774
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(b) Each resident of a nursing facility who applies or indicates an intention to apply for medicaid. 7778
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(2) Long-term care consultations may be performed for nursing facility residents who have not applied and have not indicated an 7780
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intention to apply for medicaid. The purpose of consultations for 7782
these individuals shall be to determine continued need for nursing 7783
facility services, to provide information on alternative services, 7784
and to make referrals to alternative services. 7785

(G)(1) When a long-term care consultation is required to be 7786
performed pursuant to division (F)(1) of this section, the 7787
consultation shall be performed as follows or pursuant to division 7788
(G)(2) or (3) of this section: 7789

(a) If the individual for whom the consultation is being 7790
performed has applied for medicaid and the consultation is being 7791
performed concurrently with the assessment required under section 7792
5111.204 of the Revised Code, the consultation shall be completed 7793
in accordance with the applicable time frames specified in that 7794
section for providing a level of care determination based on the 7795
assessment. 7796

(b) In all other cases, the consultation shall be performed 7797
not later than five calendar days after the department or the 7798
program administrator under contract with the department receives 7799
notice of the reason for which the consultation is required to be 7800
performed pursuant to division (F)(1) of this section. 7801

(2) An individual or the individual's representative may 7802
request that a long-term care consultation be performed on a date 7803
that is later than the date required under division (G)(1)(a) or 7804
(b) of this section. 7805

(3) If a long-term care consultation cannot be completed 7806
within the number of days required by division (G)(1) or (2) of 7807
this section, the department or the program administrator under 7808
contract with the department may do any of the following: 7809

(a) Exempt the individual from the consultation pursuant to 7810
rules that may be adopted under division (K) of this section; 7811

(b) In the case of an applicant for admission to a nursing facility, perform the consultation after the individual is admitted to the nursing facility; 7812
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(c) In the case of a resident of a nursing facility, perform the consultation as soon as practicable. 7815
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(H) An individual is not required to be ~~assessed~~ given a long-term care consultation under ~~division (B)~~ of this section if any of the following apply: 7817
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(1) ~~The circumstances~~ individual or the individual's representative chooses to forego participation in the consultation pursuant to criteria specified ~~by~~ in rules adopted under division ~~(I)~~(K) of this section ~~exist.~~ 7820
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(2) ~~The person~~ individual is to receive care in a nursing facility under a contract for continuing care as defined in section 173.13 of the Revised Code. 7824
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(3) ~~The person~~ individual has a contractual right to admission to a nursing facility operated as part of a system of continuing care in conjunction with one or more facilities that provide a less intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, an ~~adult-care~~ adult care facility licensed under Chapter 3722. of the Revised Code, or an independent living arrangement; 7827
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(4) ~~The person~~ individual is to receive continual care in a home for the aged exempt from taxation under section 5701.13 of the Revised Code; 7835
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~~(5) The person is to receive care in the nursing facility for not more than fourteen days in order to provide temporary relief to the person's primary caregiver and the nursing facility notifies the department of the person's admittance not later than~~ 7838
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~~twenty four hours after admitting the person individual is seeking 7842
admission to a facility that is not a nursing facility with a 7843
provider agreement under section 5111.22 of the Revised Code; 7844~~

~~(6) The person individual is to be transferred from another 7845
nursing facility, ~~unless the nursing facility from which or to~~ 7846
~~which the person is to be transferred determines that the person's~~ 7847
~~medical condition has changed substantially since the person's~~ 7848
~~admission to the nursing facility from which the person is to be~~ 7849
~~transferred or a review is required by a third party payment~~ 7850
~~source;~~ 7851~~

~~(7) The person individual is to be readmitted to a nursing 7852
facility following a period of hospitalization, ~~unless the~~ 7853
~~hospital or nursing facility determines that the person's medical~~ 7854
~~condition has changed substantially since the person's admission~~ 7855
~~to the hospital, or a review is required by a third party payment~~ 7856
~~source;~~ 7857~~

~~(8) The ~~department or designated agency fails to complete an~~ 7858
~~assessment within the time required by division (D) or (E) of this~~ 7859
~~section or determines after a partial assessment that the person~~ 7860
~~should be exempt from the assessment individual is exempted from~~ 7861
~~the long-term care consultation requirement by the department or~~ 7862
~~the program administrator pursuant to rules that may be adopted~~ 7863
~~under division (K) of this section.~~ 7864~~

~~(D) The ~~department or designated agency shall perform a~~ 7865
~~complete assessment, or, if circumstances provided by rules~~ 7866
~~adopted under division (I) of this section exist, a partial~~ 7867
~~assessment, as follows:~~ 7868~~

~~(1) In the case of a hospitalized person applying or 7869
intending to apply to a nursing facility, not later than two 7870
working days after the person or the person's representative is 7871
notified that a bed is available in a nursing facility;~~ 7872

~~(2) In the case of an emergency as determined in accordance with rules adopted under division (I) of this section, not later than one working day after the person or the person's representative is notified that a bed is available in a nursing facility;~~

~~(3) In all other cases, not later than five calendar days after the person or the person's representative who submits the application is notified that a bed is available in a nursing facility.~~

~~(E) If the department or designated agency conducts a partial assessment under division (D) 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 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.~~ 7904
7905

~~(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. 7906
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~~(I)(K)~~ The director of ~~job and family services~~ shall aging ~~may~~ adopt any rules in accordance with ~~Chapter 119. of the Revised Code to implement and administer~~ the director considers necessary ~~for the implementation and administration of~~ this section. The rules shall ~~include~~ be adopted in accordance with Chapter 119. of the Revised Code and may specify all of the following: 7915
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(1) ~~The information a person being assessed or the person's representative must provide to enable the department or designated agency to do the assessment;~~ 7921
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~~(2) Criteria to be used to determine whether a person is in need of nursing facility services;~~ 7924
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~~(3) Criteria to be used to determine whether an alternative source of long term care is appropriate for the person being assessed;~~ 7926
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~~(4) Criteria and procedures to be used to determine a person's physical, mental, and psychosocial needs;~~ 7929
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~~(5) Criteria to be used to determine the effectiveness and continued availability of a person's current source of informal support and care;~~ 7931
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~~(6) Circumstances, in addition to those specified in division (C) of this section, under which a person is not required to be assessed;~~ 7934
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~~(7) Circumstances under which the department or designated agency may perform a partial assessment under division (D) of this section;~~ 7937
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~~(8) The method by which a situation will be determined to be an emergency for the purpose of division (D)(2) of this section;~~ 7940
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~~(9) The method by which the department will attempt to resolve complaints filed under division (F) of this section~~ 7942
Procedures for performing long-term care consultations pursuant to 7943
this section; 7944
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(2) Information to be provided through long-term care consultations regarding long-term care services that are available; 7946
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(3) Criteria for identifying nursing facility residents who would benefit from long-term care consultations; 7949
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(4) Criteria under which an individual or the individual's representative may chose to forego participation in a long-term care consultation; 7951
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(5) Criteria for exempting individuals from the long-term care consultation requirement. 7954
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~~(J)(L) The director of job and family services aging 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:~~~~ 7956
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~~(1) The nursing facility fails to notify the department within the required time about an admission described in division (C)(5) of this section;~~ 7960
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~~(2) The if the nursing facility admits or retains an~~ 7963

~~individual~~, without evidence that a ~~complete or partial assessment~~ 7964
~~long-term care consultation~~ has been ~~conducted~~ performed, a ~~person~~ 7965
~~other than a person exempt from the assessment requirement~~ as 7966
~~provided~~ required by ~~division (C)~~ of this section. 7967

~~The director shall deposit~~ In accordance with section 5111.62 7968
~~of the Revised Code,~~ all fines collected under this division shall 7969
be deposited into the state treasury to the credit of the 7970
~~residents protection fund established by section 5111.62 of the~~ 7971
~~Revised Code.~~ 7972

Sec. ~~5101.752~~ 173.43. The department of ~~job and family~~ 7973
~~services aging~~ shall certify ~~registered nurses licensed under~~ 7974
~~Chapter 4723. of the Revised Code and social workers and~~ 7975
~~independent social workers licensed under Chapter 4757. of the~~ 7976
~~Revised Code~~ individuals who meet certification requirements 7977
established by rule to perform ~~assessments under~~ long-term care 7978
consultations for purposes of section 5101.75 or 5101.754 173.42 7979
of the Revised Code. The director of ~~job and family services aging~~ 7980
shall adopt rules in accordance with Chapter 119. of the Revised 7981
Code governing the certification process and requirements. The 7982
rules shall specify the education, experience, or training in 7983
~~geriatric~~ long-term care a person must have to qualify for 7984
certification. 7985

Sec. 173.44. (A) As used in this section, "nursing home" and 7986
"residential care facility" have the same meanings as in section 7987
3721.01 of the Revised Code. 7988

(B) The department of aging may conduct an annual survey of 7989
nursing homes and residential care facilities. The survey shall 7990
include questions about capacity, occupancy, and private pay 7991
charges. The department may contract with an outside entity to 7992
conduct the survey and analyze the results. The results of the 7993

survey and any analysis completed by the department or its 7994
designee shall be made available to the general assembly, other 7995
state agencies, nursing home and residential care facility 7996
providers, and the general public. 7997

(C) No nursing home or residential care facility shall 7998
recklessly fail to complete the survey. 7999

Sec. 173.45. As used in this section and in sections 173.46 8000
to 173.49 of the Revised Code: 8001

(A) "Long-term care facility" means any of the following: 8002

(1) A nursing home; 8003

(2) A residential care facility; 8004

(3) A county home or district home that has never been 8005
licensed as a residential care facility under Chapter 3721. of the 8006
Revised Code. 8007

(B) "County home," "district home," "nursing home," and 8008
"residential care facility" have the same meanings as in section 8009
3721.01 of the Revised Code. 8010

(C) "Nursing facility" has the same meaning as in section 8011
5111.20 of the Revised Code. 8012

Sec. 173.46. (A) The department of aging shall develop and 8013
publish a guide to long-term care facilities for use by 8014
individuals considering long-term care facility admission and 8015
their families, friends, and advisors. The guide, which shall be 8016
titled the Ohio long-term care consumer guide, may be published in 8017
printed form or in electronic form for distribution over the 8018
internet. The guide may be developed as a continuation or 8019
modification of the guide published by the department prior to the 8020
effective date of this section under rules adopted under section 8021
173.02 of the Revised Code. 8022

(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: 8023
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(1) Information regarding the facility's compliance with state statutes and rules and federal statutes and regulations; 8027
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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; 8029
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(3) Results of the customer satisfaction surveys conducted under section 173.47 of the Revised Code; 8033
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(4) Any other information the department specifies in rules adopted under section 173.49 of the Revised Code. 8035
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Sec. 173.47. (A) For purposes of publishing the Ohio long-term care consumer guide, the department of aging shall conduct or provide for the conduct of an annual customer satisfaction survey of each long-term care facility. The results of the surveys may include information obtained from long-term care facility residents, their families, or both. 8037
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(B)(1) The department may charge fees for the conduct of annual customer satisfaction surveys. The department may contract with any person or government entity to collect the fees on its behalf. All fees collected under this section shall be deposited in accordance with section 173.48 of the Revised Code. 8043
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(2) The fees charged under this section shall not exceed the following amounts: 8048
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(a) Four hundred dollars for the customer satisfaction survey of a long-term care facility that is a nursing home or county home or district home operated in the same manner as a nursing home; 8050
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(b) Three hundred dollars for the customer satisfaction survey pertaining to a long-term care facility that is a residential care facility or county home or district home not licensed as a residential care facility but operated in the same manner as a residential care facility. 8053
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(3) Fees paid by a long-term care facility that is a nursing facility shall be reimbursed through the medicaid program operated under Chapter 5111. of the Revised Code. 8058
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Sec. 173.48. There is hereby created in the state treasury the long-term care consumer guide fund. Money collected from the fees charged for the conduct of customer satisfaction surveys under section 173.47 of the Revised Code shall be credited to the fund. The department of aging shall use money in the fund for costs associated with publishing the Ohio long-term care consumer guide, including costs incurred in conducting or providing for the conduct of customer satisfaction surveys. 8061
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Sec. 173.49. The department of aging shall adopt rules as the department considers necessary to implement and administer sections 173.45 to 173.48 of the Revised Code. The rules shall be adopted under Chapter 119. of the Revised Code. 8069
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Sec. 173.50. Pursuant to a contract entered into with the department of job and family services as an interagency agreement under section 5111.91 of the Revised Code, the department of aging shall carry out the day-to-day administration of the component of the medicaid program established under Chapter 5111. of the Revised Code known as the program of all-inclusive care for the elderly or PACE. The department shall carry out its PACE administrative duties in accordance with the provisions of the interagency agreement and all applicable federal laws, including the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-4, 8073
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as amended. 8083

Sec. 183.28. The education technology trust fund is hereby 8084
created in the state treasury. Money credited to the fund shall be 8085
used to pay costs of the agency designated by the governor to 8086
assume the functions of the Ohio SchoolNet commission ~~under~~ 8087
~~section 3301.80 of the Revised Code.~~ All investment earnings of 8088
the fund shall be credited to the fund. 8089

Sec. 184.02. (A) The third frontier commission may perform 8090
any act to ensure the performance of any function necessary or 8091
appropriate to carry out the purposes of, and exercise the powers 8092
granted under, sections 184.01 and 184.02 of the Revised Code. In 8093
addition, the commission may do any of the following: 8094

(1) Adopt, amend, and rescind rules under section 111.15 of 8095
the Revised Code for the administration of any aspect of its 8096
operations; 8097

(2) Adopt bylaws governing its operations, including bylaws 8098
that establish procedures and set policies as may be necessary to 8099
assist with the furtherance of its purposes; 8100

(3) Appoint and set the compensation of employees needed to 8101
carry out its duties; 8102

(4) Contract with, retain the services of, or designate, and 8103
fix the compensation of, such financial consultants, accountants, 8104
other consultants and advisors, and other independent contractors 8105
as may be necessary or desirable to carry out its duties; 8106

(5) Solicit input and comments from the third frontier 8107
advisory board, and specialized industry, professional, and other 8108
relevant interest groups concerning its purposes; 8109

(6) Facilitate alignment of the state's science and 8110

technology programs and activities; 8111

(7) Make grants and loans to individuals, public agencies, 8112
private companies or organizations, or joint ventures for any of 8113
the broad range of activities related to its purposes. 8114

(B) The commission shall do all of the following: 8115

(1) Establish a competitive process for the award of grants 8116
and loans that is designed to fund the most meritorious proposals 8117
and, when appropriate, provide for peer review of proposals; 8118

(2) Within ninety days after the end of each fiscal year, 8119
submit to the governor and the general assembly a report of the 8120
activities of the commission during the preceding fiscal year; 8121

(3) With specific application to the biomedical research and 8122
technology transfer trust fund, periodically make strategic 8123
assessments of the types of state investments in biomedical 8124
research and biotechnology in the state that would likely create 8125
jobs and business opportunities in the state and produce the most 8126
beneficial long-term improvements to the public health of ~~Ohioians~~ 8127
Ohioans, including, but not limited to, biomedical research and 8128
biotechnology initiatives that address tobacco-related illnesses 8129
as may be outlined in any master agreement. The commission shall 8130
award grants and loans from the fund pursuant to a process 8131
established under division (B)(1) of this section. 8132

(C) Notwithstanding the authority granted to the commission 8133
under sections 184.01 to 184.04 of the Revised Code, the 8134
commission shall not make any grants or loans to individuals, 8135
public agencies, private companies or organizations, or joint 8136
ventures for any activities involving stem cell research with 8137
embryonic tissue. 8138

Sec. 307.88. (A) Bids submitted pursuant to sections 307.86 8139
to 307.92 of the Revised Code shall be in a form prescribed by the 8140

contracting authority and filed in a sealed envelope at the time 8141
and place mentioned in the ~~advertisement~~ notice. The bids received 8142
shall be opened and tabulated at the time stated in the notice. 8143
Each bid shall contain the full name of each person submitting the 8144
bid. ~~Except as otherwise provided in division (B) of this section,~~ 8145
~~if~~ If the bid is in excess of ~~ten~~ twenty-five thousand dollars and 8146
for a contract for the construction, demolition, alteration, 8147
repair, or reconstruction of an improvement, it shall meet the 8148
requirements of section 153.54 of the Revised Code. If the bid is 8149
in excess of ~~ten~~ twenty-five thousand dollars and for any other 8150
contract authorized by sections 307.86 to 307.92 of the Revised 8151
Code, it shall be accompanied by a bond or certified check, 8152
cashier's check, or money order on a solvent bank or savings and 8153
loan association in a reasonable amount stated in the 8154
~~advertisement~~ notice but not to exceed five per cent of the bid, 8155
conditioned that ~~he shall~~ the bidder, if ~~his~~ the bidder's bid is 8156
accepted, shall execute a contract in conformity to the invitation 8157
and ~~his~~ the bid. 8158

(B) The board of county commissioners ~~may~~, by a unanimous 8159
vote of the entire board, may permit a contracting authority to 8160
exempt a bid from any or all of the requirements of section 153.54 8161
of the Revised Code if the estimated cost is ~~less than~~ twenty-five 8162
thousand dollars or less. If the board exempts a bid from any but 8163
not all of ~~these~~ those requirements, the bid notice published in 8164
the newspaper pursuant to section 307.87 of the Revised Code shall 8165
state the specific bid guaranty requirements that apply. If the 8166
board exempts a bid from all requirements of section 153.54 of the 8167
Revised Code, the notice shall state that none of the requirements 8168
of that section apply. 8169

Sec. 317.08. (A) Except as provided in divisions (C) and (D) 8170
of this section, the county recorder shall keep six separate sets 8171
of records as follows: 8172

(1) A record of deeds, in which shall be recorded all deeds 8173
and other instruments of writing for the absolute and 8174
unconditional sale or conveyance of lands, tenements, and 8175
hereditaments; all notices as provided in sections 5301.47 to 8176
5301.56 of the Revised Code; all judgments or decrees in actions 8177
brought under section 5303.01 of the Revised Code; all 8178
declarations and bylaws, and all amendments to declarations and 8179
bylaws, as provided in Chapter 5311. of the Revised Code; 8180
affidavits as provided in section 5301.252 of the Revised Code; 8181
all certificates as provided in section 5311.17 of the Revised 8182
Code; all articles dedicating archaeological preserves accepted by 8183
the director of the Ohio historical society under section 149.52 8184
of the Revised Code; all articles dedicating nature preserves 8185
accepted by the director of natural resources under section 8186
1517.05 of the Revised Code; all agreements for the registration 8187
of lands as archaeological or historic landmarks under section 8188
149.51 or 149.55 of the Revised Code; all conveyances of 8189
conservation easements and agricultural easements under section 8190
5301.68 of the Revised Code; all instruments extinguishing 8191
agricultural easements under section 901.21 or 5301.691 of the 8192
Revised Code or pursuant to terms of such an easement granted to a 8193
charitable organization under section 5301.68 of the Revised Code; 8194
all instruments or orders described in division (B)(1)(c)(ii) of 8195
section 5301.56 of the Revised Code; all no further action letters 8196
issued under section 122.654 or 3746.11 of the Revised Code; all 8197
covenants not to sue issued under section 3746.12 of the Revised 8198
Code, including all covenants not to sue issued pursuant to 8199
section 122.654 of the Revised Code; any restrictions on the use 8200
of property contained in a no further action letter issued under 8201
section 122.654 of the Revised Code, any restrictions on the use 8202
of property identified pursuant to division (C)(3)(a) of section 8203
3746.10 of the Revised Code, and any restrictions on the use of 8204
property contained in a deed or other instrument as provided in 8205

division (E) or (F) of section 3737.882 of the Revised Code; any	8206
easement executed or granted under section 3734.22, 3734.24,	8207
3734.25, or 3734.26 of the Revised Code; any environmental	8208
covenant entered into in accordance with sections 5301.80 to	8209
5301.92 of the Revised Code; all memoranda of trust, as described	8210
in division (A) of section 5301.255 of the Revised Code, that	8211
describe specific real property; and all agreements entered into	8212
under division (A) of section 1521.26 of the Revised Code;	8213
(2) A record of mortgages, in which shall be recorded all of	8214
the following:	8215
(a) All mortgages, including amendments, supplements,	8216
modifications, and extensions of mortgages, or other instruments	8217
of writing by which lands, tenements, or hereditaments are or may	8218
be mortgaged or otherwise conditionally sold, conveyed, affected,	8219
or encumbered;	8220
(b) All executory installment contracts for the sale of land	8221
executed after September 29, 1961, that by their terms are not	8222
required to be fully performed by one or more of the parties to	8223
them within one year of the date of the contracts;	8224
(c) All options to purchase real estate, including	8225
supplements, modifications, and amendments of the options, but no	8226
option of that nature shall be recorded if it does not state a	8227
specific day and year of expiration of its validity;	8228
(d) Any tax certificate sold under section 5721.33 of the	8229
Revised Code, or memorandum of it, that is presented for filing of	8230
record.	8231
(3) A record of powers of attorney, including all memoranda	8232
of trust, as described in division (A) of section 5301.255 of the	8233
Revised Code, that do not describe specific real property;	8234
(4) A record of plats, in which shall be recorded all plats	8235

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 8267
records required in division (D) of this section, a county 8268
recorder may record all the instruments required to be recorded by 8269
this section in two separate sets of record books. One set shall 8270
be called the "official records" and shall contain the instruments 8271
listed in divisions (A)(1), (2), (3), (5), and (6) and (D) of this 8272
section. The second set of records shall contain the instruments 8273
listed in division (A)(4) of this section. 8274

(D) Except as provided in division (C) of this section, the 8275
county recorder shall keep a separate set of records containing 8276
all corrupt activity lien notices filed with the recorder pursuant 8277
to section 2923.36 of the Revised Code and a separate set of 8278
records containing all medicaid fraud lien notices filed with the 8279
recorder pursuant to section 2933.75 of the Revised Code. 8280

Sec. 317.36. (A) The county recorder shall collect the low- 8281
and moderate-income housing trust fund fee as specified in 8282
sections 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, 8283
~~5111.021~~ 5111.022, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 8284
6101.09, and 6115.09 of the Revised Code. The amount of any 8285
housing trust fund fee the recorder is authorized to collect is 8286
equal to the amount of any base fee the recorder is authorized to 8287
collect for services. The housing trust fund fee shall be 8288
collected in addition to the base fee. 8289

(B) The recorder shall certify the amounts collected as 8290
housing trust fund fees pursuant to division (A) of this section 8291
into the county treasury as housing trust fund fees to be paid to 8292
the treasurer of state pursuant to section 319.63 of the Revised 8293
Code. 8294

Sec. 319.20. After complying with sections 319.202, 315.251, 8295
and 319.203 of the Revised Code, and on application and 8296

presentation of title, with the affidavits required by law, or the 8297
proper order of a court, bearing the last known address of the 8298
grantee, or of any one of the grantees named in the title, and a 8299
reference to the volume and page of the recording of the next 8300
preceding recorded instrument by or through which the grantor 8301
claims title, the county auditor shall transfer any land or town 8302
lot or part thereof, minerals therein, or mineral rights thereto, 8303
charged with taxes on the tax list, from the name in which it 8304
stands into the name of the owner, when rendered necessary by a 8305
conveyance, partition, devise, descent, or otherwise. If by reason 8306
of the conveyance or otherwise, a part only of a tract or lot, 8307
minerals therein, or mineral rights thereto, as charged in the tax 8308
list, is to be transferred, the auditor shall determine the tax 8309
value of the part of a tract or lot of real estate, minerals 8310
therein, or mineral rights thereto, so transferred, and the value 8311
of the remaining part compared with the value of the whole. 8312

Whenever a part only of a tract or lot of real estate has 8313
been transferred by the auditor and ~~such~~ the tract or lot bears 8314
unpaid taxes, penalties, interest, or special assessments, the 8315
unpaid taxes, penalties, interest, or special assessments shall 8316
immediately be apportioned, upon demand or request by the 8317
transferee or remaining owner, in the following manner: 8318

(A) The auditor shall allocate to the part so transferred, 8319
and to the remaining part, amounts of any current or delinquent 8320
taxes, interest, or penalties that have accrued against the parcel 8321
as a whole, proportionate to their respective values. 8322

(B) The lien of taxes, penalties, interest, and special 8323
assessments, as levied against the original tract, shall extend to 8324
the part so transferred and the part remaining only to the extent 8325
of the amounts so allocated to the respective parts. 8326

This section does not change the total amount of taxes, 8327
special assessments, or other charges as originally levied, or the 8328

total amount of the balance due. The auditor shall certify such
apportionments to the county treasurer.

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Whenever the state acquires an entire parcel or a part only
of a parcel of real property in fee simple, the county auditor,
upon application of the grantor or property owner or the state,
which application shall contain a description of the property as
it appears on the tax list and the date of transfer of ownership,
shall prepare an estimate of the taxes that are a lien on ~~said~~ the
property, but have not been determined, assessed, and levied for
the year in which the property was acquired. The county auditor
shall thereupon apportion ~~such~~ the estimated taxes proportionately
between the grantor and the state for the period of the lien year
that each had or shall have had ownership or possession of the
property, whichever is earlier. The county treasurer shall accept
payment from the state for estimated taxes at the time that the
real property is acquired. If the state has paid in full in the
year in which the property is acquired that proportion of the
estimated taxes that the tax commissioner determines are not
subject to remission by the county auditor for such year under
division (C) of section 5713.08 of the Revised Code, the estimated
taxes paid shall be considered the tax liability on the exempted
property for that year.

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Section 319.42 of the Revised Code applies to the
apportionment of special assessments.

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Complaint against such values as determined by the auditor or
the allocation of assessments by the certifying authority may be
filed by the transferee or the remaining owner, and if filed,
proceedings including appeals shall be had in the manner and
within the time provided by sections 5717.01 to 5717.06 and
5715.19 to 5715.22 of the Revised Code, for complaints against
valuation or assessment of real property.

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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 8389
and payable for current expenses against real property in that 8390
class if each of the district's taxes were reduced for the current 8391
year under division (D)(1) of this section without regard to the 8392
application of division (E)(3) of this section divided by 8393

(b) The taxable value of all real property in that class. 8394

(4) "Taxes charged and payable" means the taxes charged and 8395
payable prior to any reduction required by section 319.302 of the 8396
Revised Code. 8397

(C) The tax commissioner shall make the determinations 8398
required by this section each year, without regard to whether a 8399
taxing district has territory in a county to which section 5715.24 8400
of the Revised Code applies for that year. Separate determinations 8401
shall be made for each of the two classes established pursuant to 8402
section 5713.041 of the Revised Code. 8403

(D) With respect to each tax authorized to be levied by each 8404
taxing district, the tax commissioner, annually, shall do both of 8405
the following: 8406

(1) Determine by what percentage, if any, the sums levied by 8407
such tax against the carryover property in each class would have 8408
to be reduced for the tax to levy the same number of dollars 8409
against such property in that class in the current year as were 8410
charged against such property by such tax in the preceding year 8411
subsequent to the reduction made under this section but before the 8412
reduction made under section 319.302 of the Revised Code. In the 8413
case of a tax levied for the first time that is not a renewal of 8414
an existing tax, the commissioner shall determine by what 8415
percentage the sums that would otherwise be levied by such tax 8416
against carryover property in each class would have to be reduced 8417
to equal the amount that would have been levied if the full rate 8418
thereof had been imposed against the total taxable value of such 8419

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 8450
the amount in division (E)(1)(a) of this section, the pre-1982 8451
joint vocational taxes shall be zero. 8452

As used in divisions (E)(2) and (3) of this section, "taxes 8453
charged and payable" has the same meaning as in division (B)(4) of 8454
this section, and excludes any tax charged and payable in 1985 or 8455
thereafter under sections 5705.194 to 5705.197 or section 5705.213 8456
or 5705.219 of the Revised Code. 8457

(2) If in the case of a school district other than a joint 8458
vocational or cooperative education school district any percentage 8459
required to be used in division (D)(2) of this section for either 8460
class of property could cause the total taxes charged and payable 8461
for current expenses to be less than two per cent of the taxable 8462
value of all real property in that class that is subject to 8463
taxation by the district, the commissioner shall determine what 8464
percentages would cause the district's total taxes charged and 8465
payable for current expenses against that class, after all 8466
reductions that would otherwise be made under this section, to 8467
equal, when combined with the pre-1982 joint vocational taxes 8468
against that class, the lesser of the following: 8469

(a) The sum of the rates at which those taxes are authorized 8470
to be levied; 8471

(b) Two per cent of the taxable value of the property in that 8472
class. The auditor shall use such percentages in making the 8473
reduction required by this section for that class. 8474

(3)(a) If in the case of a joint vocational school district 8475
any percentage required to be used in division (D)(2) of this 8476
section for either class of property could cause the total taxes 8477
charged and payable for current expenses for that class to be less 8478
than the designated amount, the commissioner shall determine what 8479
percentages would cause the district's total taxes charged and 8480

payable for current expenses for that class, after all reductions 8481
that would otherwise be made under this section, to equal the 8482
designated amount. The auditor shall use such percentages in 8483
making the reductions required by this section for that class. 8484

(b) As used in division (E)(3)(a) of this section, the 8485
designated amount shall equal the taxable value of all real 8486
property in the class that is subject to taxation by the district 8487
times the lesser of the following: 8488

(i) Two-tenths of one per cent; 8489

(ii) The district's effective rate plus the following 8490
percentage for the year indicated: 8491

WHEN COMPUTING THE 8492

TAXES CHARGED FOR ADD THE FOLLOWING PERCENTAGE: 8493

1987	0.025%	8494
1988	0.05%	8495
1989	0.075%	8496
1990	0.1%	8497
1991	0.125%	8498
1992	0.15%	8499
1993	0.175%	8500
1994 and thereafter	0.2%	8501

(F) As used in this division, "specified percentage" means 8502
the percentage specified in a resolution under division (A)(2) of 8503
section 5705.219 of the Revised Code, plus one hundred per cent. 8504

With respect to each tax authorized to be levied by a school 8505
district under section 5705.219 of the Revised Code, the tax 8506
commissioner, annually, shall do both of the following: 8507

(1) Determine by what percentage, if any, the sums levied by 8508
such tax against the carryover property in each class would have 8509
to be reduced for the tax to levy the specified percentage of the 8510
number of dollars against such property in that class in the 8511

current year as were charged against such property by such tax in 8512
the preceding year subsequent to the reduction made under this 8513
division but before the reduction made under section 319.302 of 8514
the Revised Code. 8515

If the sums that otherwise would be levied by the tax against 8516
the carryover property in a class in the current year do not 8517
exceed the specified percentage of the sums charged against such 8518
property in that class in the preceding year subsequent to the 8519
reduction under this division but before the reduction made under 8520
section 319.302 of the Revised Code, no reduction shall be made 8521
under this division for the current year. In the case of a tax 8522
levied for the first time that is not a renewal of an existing 8523
tax, the commissioner shall determine by what percentage the sums 8524
that otherwise would be levied by such tax against carryover 8525
property in each class would have to be reduced to equal the 8526
specified percentage of the amount that would have been levied if 8527
the full rate thereof had been imposed against the total taxable 8528
value of such property in the preceding tax year. A tax or portion 8529
of a tax levied under section 5705.219 of the Revised Code that is 8530
designated a replacement levy is not a renewal of an existing tax 8531
for the purposes of this division. 8532

(2) Certify each percentage determined in division (F)(1) of 8533
this section and the class of property to which that percentage 8534
applies to the county auditor of each county in which the district 8535
has territory. The county auditor, after complying with section 8536
319.30 of the Revised Code, shall reduce the sum to be levied by 8537
such tax against each parcel of real property in the district by 8538
the percentage so certified for its class. Certification shall be 8539
made by the first day of September except in the case of a tax 8540
levied for the first time, in which case certification shall be 8541
made within fifteen days of the date the county auditor submits 8542
the information necessary to make the required determination. 8543

(G) No reduction shall be made under this section in the rate 8544
at which any tax is levied. 8545

~~(G)~~(H) The commissioner may order a county auditor to furnish 8546
any information ~~he~~ the commissioner needs to make the 8547
determinations required under division (D) ~~or~~ (E), or (F) of this 8548
section, and the auditor shall supply the information in the form 8549
and by the date specified in the order. If the auditor fails to 8550
comply with an order issued under this division, except for good 8551
cause as determined by the commissioner, the commissioner shall 8552
withhold from such county or taxing district therein fifty per 8553
cent of state revenues to local governments pursuant to section 8554
5747.50 of the Revised Code or shall direct the department of 8555
education to withhold therefrom fifty per cent of state revenues 8556
to school districts pursuant to Chapter 3317. of the Revised Code. 8557
The commissioner shall withhold the distribution of such revenues 8558
until the county auditor has complied with this division, and the 8559
department shall withhold the distribution of such revenues until 8560
the commissioner has notified the department that the county 8561
auditor has complied with this division. 8562

~~(H)~~(I) If the commissioner is unable to certify a tax 8563
reduction factor for either class of property in a taxing district 8564
located in more than one county by the last day of November 8565
because information required under division ~~(G)~~(H) of this section 8566
is unavailable, ~~he~~ the commissioner may compute and certify an 8567
estimated tax reduction factor for that district for that class. 8568
The estimated factor shall be based upon an estimate of the 8569
unavailable information. Upon receipt of the actual information 8570
for a taxing district that received an estimated tax reduction 8571
factor, the commissioner shall compute the actual tax reduction 8572
factor and use that factor to compute the taxes that should have 8573
been charged and payable against each parcel of property for the 8574
year for which the estimated reduction factor was used. The amount 8575

by which the estimated factor resulted in an overpayment or 8576
underpayment in taxes on any parcel shall be added to or 8577
subtracted from the amount due on that parcel in the ensuing tax 8578
year. 8579

A percentage or a tax reduction factor determined or computed 8580
by the commissioner under this section shall be used solely for 8581
the purpose of reducing the sums to be levied by the tax to which 8582
it applies for the year for which it was determined or computed. 8583
It shall not be used in making any tax computations for any 8584
ensuing tax year. 8585

~~(I)~~(J) In making the determinations under division (D)(1) or 8586
(F)(1) of this section, the tax commissioner shall take account of 8587
changes in the taxable value of carryover property resulting from 8588
complaints filed under section 5715.19 of the Revised Code for 8589
determinations made for the tax year in which such changes are 8590
reported to the commissioner. Such changes shall be reported to 8591
the commissioner on the first abstract of real property filed with 8592
the commissioner under section 5715.23 of the Revised Code 8593
following the date on which the complaint is finally determined by 8594
the board of revision or by a court or other authority with 8595
jurisdiction on appeal. The tax commissioner shall account for 8596
such changes in making the determinations only for the tax year in 8597
which the change in valuation is reported. Such a valuation change 8598
shall not be used to recompute the percentages determined under 8599
division (D)(1) or (F)(1) of this section for any prior tax year. 8600

Sec. 319.302. (A)(1) The county auditor shall classify each 8601
parcel of real property as qualifying property or nonqualifying 8602
property, according to its principal, current use. Vacant lots and 8603
tracts of land upon which there are no structures or improvements 8604
shall be classified in accordance with their location and their 8605
highest and best probable legal use. For purposes of this section, 8606

lands and improvements thereon used for residential or 8607
agricultural purposes shall be classified as qualifying property, 8608
and all other lands and improvements thereon and minerals or 8609
rights to minerals shall be classified as nonqualifying property. 8610

(2) Each year, the county auditor shall reclassify each 8611
parcel of real property whose principal, current use has changed 8612
from the preceding year to reflect the use of the property as of 8613
the first day of January of the current tax year. 8614

(B) After complying with section 319.301 of the Revised Code, 8615
the county auditor shall reduce the remaining sums to be levied 8616
against each parcel of real property listed on the general tax 8617
list and duplicate of real and public utility property for the 8618
current tax year and classified for that tax year as qualifying 8619
property under division (A) of this section, and against each 8620
manufactured and mobile home that is taxed pursuant to division 8621
(D)(2) of section 4503.06 of the Revised Code and that is on the 8622
manufactured home tax list for the current tax year, by ten per 8623
cent, to provide a partial exemption for that property or such 8624
home. Except as otherwise provided in sections 323.152, 323.158, 8625
505.06, and 715.263 of the Revised Code, the amount of the taxes 8626
remaining after such reduction, if any, shall be the real and 8627
public utility property taxes charged and payable on each parcel 8628
of real property, including nonqualifying property, and the 8629
manufactured home tax charged and payable, ~~on each property~~ 8630
manufactured or mobile home, and shall be the amounts certified to 8631
the county treasurer for collection. Upon receipt of the tax 8632
duplicate, the treasurer shall certify to the tax commissioner the 8633
total amount by which taxes were reduced under this section, as 8634
shown on the duplicate. Such reduction shall not directly or 8635
indirectly affect the determination of the principal amount of 8636
notes that may be issued in anticipation of any tax levies or the 8637
amount of bonds or notes for any planned improvements. If after 8638

application of sections 5705.31 and 5705.32 of the Revised Code 8639
and other applicable provisions of law, including divisions (F) 8640
and (I) of section 321.24 of the Revised Code, there would be 8641
insufficient funds for payment of debt charges on bonds or notes 8642
payable from taxes reduced by this section, the reduction of taxes 8643
provided for in this section shall be adjusted to the extent 8644
necessary to provide funds from such taxes. 8645

(C) The tax commissioner shall adopt rules governing the 8646
classification of property under this section, and no property 8647
shall be classified under this section except in accordance with 8648
those rules. 8649

(D) The classification required by division (A) of this 8650
section is solely for the purpose of allowing the partial 8651
exemption for qualifying property under division (B) of this 8652
section. This section does not apply to classifying real property 8653
for any other purpose authorized or required by law, or by rule of 8654
the tax commissioner. 8655

Sec. 319.54. (A) On all moneys collected by the county 8656
treasurer on any tax duplicate of the county, other than estate 8657
tax duplicates, and on all moneys received as advance payments of 8658
personal property and classified property taxes, the county 8659
auditor, on settlement with the treasurer and tax commissioner, on 8660
or before the date prescribed by law for such settlement or any 8661
lawful extension of such date, shall be allowed as compensation 8662
for the county auditor's services the following percentages: 8663

(1) On the first one hundred thousand dollars, two and 8664
one-half per cent; 8665

(2) On the next two million dollars, eight thousand three 8666
hundred eighteen ten-thousandths of one per cent; 8667

(3) On the next two million dollars, six thousand six hundred 8668

fifty-five ten-thousandths of one per cent; 8669

(4) On all further sums, one thousand six hundred sixty-three 8670
ten-thousandths of one per cent. 8671

If any settlement is not made on or before the date 8672
prescribed by law for such settlement or any lawful extension of 8673
such date, the aggregate compensation allowed to the auditor shall 8674
be reduced one per cent for each day such settlement is delayed 8675
after the prescribed date. No penalty shall apply if the auditor 8676
and treasurer grant all requests for advances up to ninety per 8677
cent of the settlement pursuant to section 321.34 of the Revised 8678
Code. The compensation allowed in accordance with this section on 8679
settlements made before the dates prescribed by law, or the 8680
reduced compensation allowed in accordance with this section on 8681
settlements made after the date prescribed by law or any lawful 8682
extension of such date, shall be apportioned ratably by the 8683
auditor and deducted from the shares or portions of the revenue 8684
payable to the state as well as to the county, townships, 8685
municipal corporations, and school districts. 8686

(B) From all moneys collected by the county treasurer on any 8687
tax duplicate of the county, other than estate tax duplicates, and 8688
on all moneys received as advance payments of personal property 8689
and classified property taxes, there shall be paid into the county 8690
treasury to the credit of the real estate assessment fund created 8691
by section 325.31 of the Revised Code, an amount to be determined 8692
by the county auditor, which shall not exceed the following 8693
percentages: 8694

(1) On the first one hundred thousand dollars, three and 8695
one-half per cent; 8696

(2) On the next three million dollars, one and three-eighths 8697
per cent; 8698

(3) On the next three million dollars, one per cent; 8699

(4) On all further sums not exceeding one hundred fifty million dollars, three-quarters of one per cent; 8700
8701

(5) On amounts exceeding one hundred fifty million dollars, six-tenths of one per cent. 8702
8703

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. 8704
8705
8706
8707

(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. 8708
8709
8710
8711

(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: 8712
8713
8714
8715
8716

(1) Four per cent on the first one hundred thousand dollars; 8717

(2) One-half of one per cent on all additional sums. 8718

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. 8719
8720
8721

(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. 8722
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(F) The county auditor shall charge and receive fees as 8729

follows: 8730

(1) For deeds of land sold for taxes to be paid by the purchaser, five dollars; 8731
8732

(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; 8733
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(3) For receiving statements of value and administering section 319.202 of the Revised Code, one dollar, or ~~ten~~ twenty 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: 8738
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(a) To or from the United States, this state, or any instrumentality, agency, or political subdivision of the United States or this state; 8746
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8748

(b) Solely in order to provide or release security for a debt or obligation; 8749
8750

(c) To confirm or correct a deed previously executed and recorded; 8751
8752

(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; 8753
8754
8755

(e) On sale for delinquent taxes or assessments; 8756

(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; 8757
8758
8759

(g) Pursuant to a reorganization of corporations or 8760
unincorporated associations or pursuant to the dissolution of a 8761
corporation, to the extent that the corporation conveys the 8762
property to a stockholder as a distribution in kind of the 8763
corporation's assets in exchange for the stockholder's shares in 8764
the dissolved corporation; 8765

(h) By a subsidiary corporation to its parent corporation for 8766
no consideration, nominal consideration, or in sole consideration 8767
of the cancellation or surrender of the subsidiary's stock; 8768

(i) By lease, whether or not it extends to mineral or mineral 8769
rights, unless the lease is for a term of years renewable forever; 8770

(j) When the value of the real property or the manufactured 8771
or mobile home or the value of the interest that is conveyed does 8772
not exceed one hundred dollars; 8773

(k) Of an occupied residential property, including a 8774
manufactured or mobile home, being transferred to the builder of a 8775
new residence or to the dealer of a new manufactured or mobile 8776
home when the former residence is traded as part of the 8777
consideration for the new residence or new manufactured or mobile 8778
home; 8779

(l) To a grantee, other than a dealer in real property or in 8780
manufactured or mobile homes, solely for the purpose of, and as a 8781
step in, the prompt sale of the real property or manufactured or 8782
mobile home to others; 8783

(m) To or from a person when no money or other valuable and 8784
tangible consideration readily convertible into money is paid or 8785
to be paid for the real estate or manufactured or mobile home and 8786
the transaction is not a gift; 8787

(n) Pursuant to division (B) of section 317.22 of the Revised 8788
Code, or section 2113.61 of the Revised Code, between spouses or 8789

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; 8820

(w) To a corporation for incorporation into a sports facility 8821
constructed pursuant to section 307.696 of the Revised Code; 8822

(x) Between persons pursuant to section 5302.18 of the 8823
Revised Code. 8824

The auditor shall compute and collect the fee. The auditor 8825
shall maintain a numbered receipt system, as prescribed by the tax 8826
commissioner, and use such receipt system to provide a receipt to 8827
each person paying a fee. The auditor shall deposit the receipts 8828
of the fees on conveyances in the county treasury daily to the 8829
credit of the general fund of the county, except as provided in 8830
division (G) of this section. 8831

~~The real property transfer fee provided for in division 8832
(F)(3) of this section shall be applicable to any conveyance of 8833
real property presented to the auditor on or after January 1, 8834
1968, regardless of its time of execution or delivery.~~ 8835

The transfer fee for a used manufactured home or used mobile 8836
home shall be computed by and paid to the county auditor of the 8837
county in which the home is located immediately prior to the 8838
transfer. 8839

(G) For each fee charged under division (F)(3) of this 8840
section, the county auditor shall deposit the greater of one 8841
dollar or one-half of the fee in the county treasury to the credit 8842
of the general fund of the county. By the fifteenth day of the 8843
month following the month in which the fee was received, the 8844
county auditor shall forward the balance of the fee to the 8845
treasurer of state for deposit in the state treasury to the credit 8846
of the general revenue fund. The county auditor shall include with 8847
each balance forwarded to the treasurer of state under this 8848
division a report in such form as the tax commissioner prescribes. 8849
Upon receipt of the report, the treasurer of state shall date 8850

stamp the report and forward it to the tax commissioner. If the 8851
county auditor fails to forward any balance within the time 8852
required by this division, the tax commissioner may withhold local 8853
government fund money allocated to the county until the balance is 8854
forwarded. The treasurer of state may require that the county 8855
auditor forward electronically any balances due under, and reports 8856
required by, this division. 8857

(H) The combined rate of taxation authorized under division 8858
(F)(3) of this section and section 322.02 of the Revised Code 8859
shall never exceed fifty cents for each one hundred dollars or 8860
fraction of one hundred dollars of the value of the real property 8861
transferred. 8862

Sec. 321.24. (A) On or before the fifteenth day of February, 8863
in each year, the county treasurer shall settle with the county 8864
auditor for all taxes and assessments that the treasurer has 8865
collected on the general duplicate of real and public utility 8866
property at the time of making the settlement. 8867

(B) On or before the thirtieth day of June, in each year, the 8868
treasurer shall settle with the auditor for all advance payments 8869
of general personal and classified property taxes that the 8870
treasurer has received at the time of making the settlement. 8871

(C) On or before the tenth day of August, in each year, the 8872
treasurer shall settle with the auditor for all taxes and 8873
assessments that the treasurer has collected on the general 8874
duplicates of real and public utility property at the time of 8875
making such settlement, not included in the preceding February 8876
settlement. 8877

(D) On or before the thirty-first day of October, in each 8878
year, the treasurer shall settle with the auditor for all taxes 8879
that the treasurer has collected on the general personal and 8880

classified property duplicates, and for all advance payments of 8881
general personal and classified property taxes, not included in 8882
the preceding June settlement, that the treasurer has received at 8883
the time of making such settlement. 8884

(E) In the event the time for the payment of taxes is 8885
extended, pursuant to section 323.17 of the Revised Code, the date 8886
on or before which settlement for the taxes so extended must be 8887
made, as herein prescribed, shall be deemed to be extended for a 8888
like period of time. At each such settlement, the auditor shall 8889
allow to the treasurer, on the moneys received or collected and 8890
accounted for by the treasurer, the treasurer's fees, at the rate 8891
or percentage allowed by law, at a full settlement of the 8892
treasurer. 8893

(F) Within thirty days after the day of each settlement of 8894
taxes required under divisions (A) and (C) of this section, the 8895
treasurer shall certify to the tax commissioner any adjustments 8896
~~which~~ that have been made to the amount certified previously 8897
pursuant to section 319.302 of the Revised Code and that the 8898
settlement has been completed. Upon receipt of such certification, 8899
the commissioner shall provide for payment to the county treasurer 8900
from the general revenue fund of an amount equal to one-half of 8901
the amount certified by the treasurer in the preceding tax year 8902
under section 319.302 of the Revised Code, less one-half of the 8903
amount computed for all taxing districts in that county for the 8904
current fiscal year under section 5703.80 of the Revised Code for 8905
crediting to the property tax administration fund. Such payment 8906
shall be credited upon receipt to the county's undivided income 8907
tax fund, and the county auditor shall transfer to the county 8908
general fund from the amount thereof the total amount of all fees 8909
and charges which the auditor and treasurer would have been 8910
authorized to receive had such section not been in effect and that 8911
amount had been levied and collected as taxes. The county auditor 8912

shall distribute the amount remaining among the various taxing 8913
districts in the county as if it had been levied, collected, and 8914
settled as real property taxes. The amount distributed to each 8915
taxing district shall be reduced by the total of the amounts 8916
computed for the district under ~~divisions (A), (B), and (C)~~ of 8917
section 5703.80 of the Revised Code, but the reduction shall not 8918
exceed the amount that otherwise would be distributed to the 8919
taxing district under this division. The tax commissioner shall 8920
make available to taxing districts such information as is 8921
sufficient for a taxing district to be able to determine the 8922
amount of the reduction in its distribution under this section. 8923

(G)(1) Within thirty days after the day of the settlement 8924
required in division (D) of this section, the county treasurer 8925
shall notify the tax commissioner that the settlement has been 8926
completed. Upon receipt of that notification, the commissioner 8927
shall provide for payment to the county treasurer from the general 8928
revenue fund of an amount equal to the amount certified under 8929
former section 319.311 of the Revised Code and paid in the state's 8930
fiscal year 2003 multiplied by the percentage specified in 8931
division (G)(2) of this section. The payment shall be credited 8932
upon receipt to the county's undivided income tax fund, and the 8933
county auditor shall distribute the amount thereof among the 8934
various taxing districts of the county as if it had been levied, 8935
collected, and settled as personal property taxes. The amount 8936
received by a taxing district under this division shall be 8937
apportioned among its funds in the same proportion as the current 8938
year's personal property taxes are apportioned. 8939

(2) Payments required under division (G)(1) of this section 8940
shall be made at the following percentages of the amount certified 8941
under former section 319.311 of the Revised Code and paid under 8942
division (G)(1) of this section in the state's fiscal year 2003: 8943

(a) In fiscal year 2004, ninety per cent; 8944

(b) In fiscal year 2005, eighty per cent; 8945

(c) In fiscal year 2006, ~~seventy~~ sixty-four per cent; 8946

(d) In fiscal year 2007, ~~sixty~~ forty per cent; 8947

(e) In fiscal year 2008, ~~fifty~~ thirty-two per cent; 8948

(f) In fiscal year 2009, ~~forty~~ sixteen per cent; 8949

~~(g) In fiscal year 2010, thirty per cent; 8950~~

~~(h) In fiscal year 2011, twenty per cent; 8951~~

~~(i) In fiscal year 2012, ten per cent. 8952~~

After fiscal year ~~2012~~ 2009, no payments shall be made under 8953
division (G)(1) of this section. 8954

(H)(1) On or before the fifteenth day of April each year, the 8955
county treasurer shall settle with the county auditor for all 8956
manufactured home taxes that the county treasurer has collected on 8957
the manufactured home tax duplicate at the time of making the 8958
settlement. 8959

(2) On or before the fifteenth day of September each year, 8960
the county treasurer shall settle with the county auditor for all 8961
remaining manufactured home taxes that the county treasurer has 8962
collected on the manufactured home tax duplicate at the time of 8963
making the settlement. 8964

(3) If the time for payment of such taxes is extended under 8965
section 4503.06 of the Revised Code, the time for making the 8966
settlement as prescribed by divisions (H)(1) and (2) of this 8967
section is extended for a like period of time. 8968

(I) Within thirty days after the day of each settlement of 8969
taxes required under division (H) of this section, the county 8970
treasurer shall certify to the tax commissioner any adjustments 8971
that have been made to the amount certified previously pursuant to 8972
section 319.302 of the Revised Code and that the settlement has 8973

been completed. Upon receipt of such certification, the 8974
commissioner shall provide for payment to the county treasurer 8975
from the general revenue fund of an amount equal to one-half of 8976
the amount certified by the treasurer in the current tax year 8977
under section 319.302 of the Revised Code. Such payment shall be 8978
credited upon receipt to the county's undivided income tax fund, 8979
and the county auditor shall transfer to the county general fund 8980
from the amount thereof the total amount of all fees and charges 8981
that the auditor and treasurer would have been authorized to 8982
receive had such section not been in effect and that amount had 8983
been levied and collected as taxes. The county auditor shall 8984
distribute the amount remaining among the various taxing districts 8985
in the county as if it had been levied, collected, and settled as 8986
manufactured home taxes. 8987

Sec. 323.01. Except as otherwise provided, as used in Chapter 8988
323. of the Revised Code: 8989

(A) "Subdivision" means any county, township, school 8990
district, or municipal corporation. 8991

(B) "Municipal corporation" includes charter municipalities. 8992

(C) "Taxes" means the total amount of all charges against an 8993
entry appearing on a tax list and the duplicate thereof that was 8994
prepared and certified in accordance with section 319.28 of the 8995
Revised Code, including taxes levied against real estate; taxes on 8996
property whose value is certified pursuant to section 5727.23 of 8997
the Revised Code; recoupment charges applied pursuant to section 8998
5713.35 of the Revised Code; all assessments; penalties and 8999
interest charged pursuant to section 323.121 of the Revised Code; 9000
charges added pursuant to section 319.35 of the Revised Code; and 9001
all of such charges which remain unpaid from any previous tax 9002
year. 9003

(D) "Current taxes" means all taxes charged against an entry 9004
on the general tax list and duplicate of real and public utility 9005
property that have not appeared on such list and duplicate for any 9006
prior tax year and any penalty thereon charged by division (A) of 9007
section 323.121 of the Revised Code. Current taxes, whether or not 9008
they have been certified delinquent, become delinquent taxes if 9009
they remain unpaid after the last day prescribed for payment of 9010
the second installment of current taxes without penalty. 9011

(E) "Delinquent taxes" means: 9012

(1) Any taxes charged against an entry on the general tax 9013
list and duplicate of real and public utility property that were 9014
charged against an entry on such list and duplicate for a prior 9015
tax year and any penalties and interest charged against such 9016
taxes. 9017

(2) Any current taxes charged on the general tax list and 9018
duplicate of real and public utility property that remain unpaid 9019
after the last day prescribed for payment of the second 9020
installment of such taxes without penalty, whether or not they 9021
have been certified delinquent, and any penalties and interest 9022
charged against such taxes. 9023

(F) "Current tax year" means, with respect to particular 9024
taxes, the calendar year in which the first installment of taxes 9025
is due prior to any extension granted under section 323.17 of the 9026
Revised Code. 9027

(G) "Liquidated claim" means: 9028

(1) Any sum of money due and payable, upon a written 9029
contractual obligation executed between the subdivision and the 9030
taxpayer, but excluding any amount due on general and special 9031
assessment bonds and notes; 9032

(2) Any sum of money due and payable, for disability 9033

financial assistance ~~or disability medical assistance~~ provided 9034
under Chapter 5115. of the Revised Code that is furnished to or in 9035
behalf of a subdivision, provided that such claim is recognized by 9036
a resolution or ordinance of the legislative body of such 9037
subdivision; 9038

(3) Any sum of money advanced and paid to or received and 9039
used by a subdivision, pursuant to a resolution or ordinance of 9040
such subdivision or its predecessor in interest, and the moral 9041
obligation to repay which sum, when in funds, shall be recognized 9042
by resolution or ordinance by the subdivision. 9043

Sec. 323.152. In addition to the reduction in taxes required 9044
under section 319.302 of the Revised Code, taxes shall be reduced 9045
as provided in divisions (A) and (B) of this section. 9046

(A)(1) Division (A) of this section applies to any of the 9047
following: 9048

(a) A person who is permanently and totally disabled; 9049

(b) A person who is sixty-five years of age or older; 9050

(c) A person who is the surviving spouse of a deceased person 9051
who was permanently and totally disabled or sixty-five years of 9052
age or older and who applied and qualified for a reduction in 9053
taxes under this division in the year of death, provided the 9054
surviving spouse is at least fifty-nine but not sixty-five or more 9055
years of age on the date the deceased spouse dies. 9056

(2) Real property taxes on a homestead owned and occupied, or 9057
a homestead in a housing cooperative occupied, by a person to whom 9058
division (A) of this section applies shall be reduced for each 9059
year for which the owner obtains a certificate of reduction from 9060
the county auditor under section 323.154 of the Revised Code or 9061
for which the occupant obtains a certificate of reduction in 9062
accordance with section 323.159 of the Revised Code. The reduction 9063

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 9155
additional fifteen days upon receipt of a written application from 9156
the county auditor, in the case of a delay in the delivery of the 9157
tax duplicate, or from the treasurer regarding an extension of the 9158
time for the billing and collection of taxes. 9159

When a delay in the closing of a tax collection period 9160
becomes unavoidable, the tax commissioner, upon application of the 9161
county auditor and county treasurer, may extend the time for 9162
payment of taxes if ~~he~~ the commissioner determines that penalties 9163
have accrued or would otherwise accrue for reasons beyond the 9164
control of the taxpayers of the county. The order so issued by the 9165
commissioner shall prescribe the final extended date for the 9166
payment of taxes for that collection period. 9167

"Emergency," as used in this section, includes death or 9168
serious illness, any organized work stoppage, mechanical failure 9169
of office equipment or machinery, or a delay in complying with 9170
section 5715.24 or 5715.26 of the Revised Code which will cause an 9171
unavoidable delay in the delivery of duplicates or in the billing 9172
or collection of taxes. Such application shall contain a statement 9173
describing the emergency that will cause the unavoidable delay. 9174
Any application from the county auditor for an extension of time 9175
for delivery of the duplicate due to an emergency must be received 9176
by the tax commissioner on or before the last day of the month 9177
preceding the date required for such delivery. When an extension 9178
of time for delivery of the duplicate is so granted, the time for 9179
payment of taxes shall be extended for a like period of time. 9180

Whenever taxable real property has been destroyed or damaged 9181
by fire, flood, tornado, or otherwise, in an amount not less than 9182
twenty-five per cent of the value as listed and assessed for 9183
taxation but in no event less than two thousand dollars of taxable 9184
value, the county board of revision, by resolution, may extend the 9185

time for payment of taxes on such property not more than one year 9186
after the time fixed by section 323.12 of the Revised Code. The 9187
board shall file a copy of such resolution with the county auditor 9188
and county treasurer, stating the name of the owner and 9189
description as it appears on the tax list, the taxing district, 9190
the type and kind of property destroyed or damaged, and the 9191
board's estimate of the amount of such destruction or damage. 9192

Sec. 325.31. (A) On the first business day of each month, and 9193
at the end of the officer's term of office, each officer named in 9194
section 325.27 of the Revised Code shall pay into the county 9195
treasury, to the credit of the general county fund, on the warrant 9196
of the county auditor, all fees, costs, penalties, percentages, 9197
allowances, and perquisites collected by the officer's office 9198
during the preceding month or part thereof for official services, 9199
except the fees allowed the county auditor by division (B) of 9200
section 319.54 of the Revised Code, which shall be paid into the 9201
county treasury to the credit of the real estate assessment fund 9202
hereby created. 9203

(B) Moneys to the credit of the real estate assessment fund 9204
may be expended, upon appropriation by the board of county 9205
commissioners, for the purpose of defraying one or more of the 9206
following: 9207

~~(1) The cost incurred by the county auditor in assessing real 9208
estate pursuant to Chapter 5713. of the Revised Code and 9209
manufactured and mobile homes pursuant to Chapter 4503. of the 9210
Revised Code;~~ 9211

~~(2)~~ At the county auditor's discretion, costs and expenses 9212
incurred by the county auditor in preparing the list of real and 9213
public utility property, in administering laws related to the 9214
taxation of real property and the levying of special assessments 9215
on real property, including administering reductions under 9216

Chapters 319. and 323. and section 4503.065 of the Revised Code, 9217
and to support assessments of real property in any administrative 9218
or judicial proceeding; 9219

~~(3)~~(2) At the county auditor's discretion, the expenses 9220
incurred by the county board of revision under Chapter 5715. of 9221
the Revised Code; 9222

~~(4)~~(3) At the county auditor's discretion, the expenses 9223
incurred by the county auditor for geographic information systems, 9224
mapping programs, and technological advances in those or similar 9225
systems or programs; 9226

~~(5)~~(4) At the county auditor's discretion, expenses incurred 9227
by the county auditor in compiling the general tax list of 9228
tangible personal property and administering tangible personal 9229
property taxes under Chapters 5711. and 5719. of the Revised Code; 9230

~~(6)~~(5) At the county auditor's discretion, costs, expenses, 9231
and fees incurred by the county auditor in the administration of 9232
estate taxes under Chapter 5731. of the Revised Code, including 9233
costs, expenses, and fees incurred under section 5731.41 of the 9234
Revised Code, and costs, expenses, and fees incurred in assessing 9235
real estate pursuant to Chapter 5713. of the Revised Code and 9236
manufactured and mobile homes pursuant to Chapter 4503. of the 9237
Revised Code. 9238

Any expenditures made from the real estate assessment fund 9239
shall comply with rules that the tax commissioner adopts under 9240
division (O) of section 5703.05 of the Revised Code. Those rules 9241
shall include a requirement that a copy of any appraisal plans, 9242
progress of work reports, contracts, or other documents required 9243
to be filed with the tax commissioner shall be filed also with the 9244
board of county commissioners. 9245

The board of county commissioners shall not transfer moneys 9246
required to be deposited in the real estate assessment fund to any 9247

other fund. Following an assessment of real property pursuant to 9248
Chapter 5713. of the Revised Code, or an assessment of a 9249
manufactured or mobile home pursuant to Chapter 4503. of the 9250
Revised Code, any moneys not expended for the purpose of defraying 9251
the cost incurred in assessing real estate or manufactured or 9252
mobile homes or for the purpose of defraying the expenses 9253
described in divisions (B)(1), (2), (3), (4), and (5), ~~and (6)~~ of 9254
this section, and thereby remaining to the credit of the real 9255
estate assessment fund, shall be apportioned ratably and 9256
distributed to those taxing authorities that contributed to the 9257
fund. However, no such distribution shall be made if the amount of 9258
such unexpended moneys remaining to the credit of the real estate 9259
assessment fund does not exceed five thousand dollars. 9260

(C) None of the officers named in section 325.27 of the 9261
Revised Code shall collect any fees from the county. Each of such 9262
officers shall, at the end of each calendar year, make and file a 9263
sworn statement with the board of county commissioners of all such 9264
fees, costs, penalties, percentages, allowances, and perquisites 9265
which have been due in the officer's office and unpaid for more 9266
than one year prior to the date such statement is required to be 9267
made. 9268

Sec. 329.04. (A) The county department of job and family 9269
services shall have, exercise, and perform the following powers 9270
and duties: 9271

(1) Perform any duties assigned by the state department of 9272
job and family services regarding the provision of public family 9273
services, including the provision of the following services to 9274
prevent or reduce economic or personal dependency and to 9275
strengthen family life: 9276

(a) Services authorized by a Title IV-A program, as defined 9277
in section 5101.80 of the Revised Code; 9278

(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;	9279 9280 9281
(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.	9282 9283 9284 9285 9286 9287 9288 9289
<u>(d) Duties assigned under section 5111.98 of the Revised Code.</u>	9290 9291
(2) Administer disability financial assistance, as required by the state department of job and family services under section 5115.03 of the Revised Code;	9292 9293 9294
(3) Administer disability medical assistance, as required by the state department of job and family services under section 5115.13 of the Revised Code;	9295 9296 9297
(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;	9298 9299 9300
(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;	9301 9302 9303
(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;	9304 9305 9306
(7) <u>(6)</u> Exercise any powers and duties relating to family services duties or workforce development activities imposed upon	9307 9308

the county department of job and family services by law, by 9309
resolution of the board of county commissioners, or by order of 9310
the governor, when authorized by law, to meet emergencies during 9311
war or peace; 9312

~~(8)~~(7) Determine the eligibility for medical assistance of 9313
recipients of aid under Title XVI of the "Social Security Act"; 9314

~~(9)~~(8) If assigned by the state director of job and family 9315
services under section 5101.515 of the Revised Code, determine 9316
applicants' eligibility for health assistance under the children's 9317
health insurance program part II; 9318

~~(10)~~(9) Enter into a plan of cooperation with the board of 9319
county commissioners under section 307.983, consult with the board 9320
in the development of the transportation work plan developed under 9321
section 307.985, establish with the board procedures under section 9322
307.986 for providing services to children whose families relocate 9323
frequently, and comply with the contracts the board enters into 9324
under sections 307.981 and 307.982 of the Revised Code that affect 9325
the county department; 9326

~~(11)~~(10) For the purpose of complying with a fiscal agreement 9327
the board of county commissioners enters into under section 307.98 9328
of the Revised Code, exercise the powers and perform the duties 9329
the fiscal agreement assigns to the county department; 9330

~~(12)~~(11) If the county department is designated as the 9331
workforce development agency, provide the workforce development 9332
activities specified in the contract required by section 330.05 of 9333
the Revised Code. 9334

(B) The powers and duties of a county department of job and 9335
family services are, and shall be exercised and performed, under 9336
the control and direction of the board of county commissioners. 9337
The board may assign to the county department any power or duty of 9338
the board regarding family services duties and workforce 9339

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 9369
section 3709.22 of the Revised Code; 9370

~~(2) A tuberculosis program operated by a county that receives 9371
funds pursuant to section 339.77 of the Revised Code; 9372~~

~~(3)~~ A tuberculosis clinic established by a board of county 9373
commissioners pursuant to section 339.76 of the Revised Code; 9374

~~(4)~~(3) A hospital that provides tuberculosis clinic services 9375
under a contract with a board of county commissioners pursuant to 9376
section 339.75 of the Revised Code. 9377

(B) The entity designated under division (A) of this section 9378
as the tuberculosis control unit shall accept that designation and 9379
fulfill its duties as the tuberculosis control unit specified 9380
under sections 339.71 to 339.89 of the Revised Code. 9381

Sec. 339.73. Each county or district tuberculosis control 9382
unit shall ensure that tuberculosis treatment is made available to 9383
all individuals with tuberculosis who reside in the area served by 9384
the unit. In making treatment available, the tuberculosis control 9385
unit may provide the treatment or make referrals for receipt of 9386
treatment from other entities. The unit may make referrals for 9387
receipt of temporary housing. 9388

The tuberculosis treatment provided under this section is 9389
limited to cases of active tuberculosis and infected contacts and 9390
includes provision of antituberculosis medication, conduct of an 9391
investigation under section 339.80 of the Revised Code, provision 9392
of appropriate follow-up services for confirmed and suspected 9393
cases of active tuberculosis, and provision of services by a 9394
physician through a course of therapy that meets the standards for 9395
tuberculosis treatment established by the United States centers 9396
for disease control and prevention or the American thoracic 9397
society. 9398

The tuberculosis control unit shall serve all residents 9399
within its jurisdiction, regardless of the length of time that the 9400
individual has resided in the area or the individual's income and 9401
resources. An individual who receives tuberculosis treatment shall 9402
disclose to the tuberculosis control unit the identity of any 9403
third party against whom the individual has or may have a right of 9404
recovery for the treatment provided. The board of county 9405
commissioners ~~is the payor of last resort for tuberculosis~~ 9406
~~treatment and shall~~ may pay for treatment only to the extent that 9407
payment is not made through third-party benefits. 9408

Sec. 339.88. The expenses incurred for detention under 9409
section 339.86 or 339.87 of the Revised Code shall be paid by the 9410
individual detained or if the individual is indigent, by the board 9411
of county commissioners of the county from which the individual 9412
was removed. ~~The board of county commissioners may apply to the~~ 9413
~~director of health for reimbursement under section 339.77 of the~~ 9414
~~Revised Code for expenses of detaining indigent individuals with~~ 9415
~~tuberculosis.~~ 9416

Sec. 340.03. (A) Subject to rules issued by the director of 9417
mental health after consultation with relevant constituencies as 9418
required by division (A)(11) of section 5119.06 of the Revised 9419
Code, with regard to mental health services, the board of alcohol, 9420
drug addiction, and mental health services shall: 9421

(1) Serve as the community mental health planning agency for 9422
the county or counties under its jurisdiction, and in so doing it 9423
shall: 9424

(a) Evaluate the need for facilities and community mental 9425
health services; 9426

(b) In cooperation with other local and regional planning and 9427
funding bodies and with relevant ethnic organizations, assess the 9428

community mental health needs, set priorities, and develop plans 9429
for the operation of facilities and community mental health 9430
services; 9431

(c) In accordance with guidelines issued by the director of 9432
mental health after consultation with board representatives, 9433
develop and submit to the department of mental health, no later 9434
than six months prior to the conclusion of the fiscal year in 9435
which the board's current plan is scheduled to expire, a community 9436
mental health plan listing community mental health needs, 9437
including the needs of all residents of the district now residing 9438
in state mental institutions and severely mentally disabled 9439
adults, children, and adolescents; all children subject to a 9440
determination made pursuant to section 121.38 of the Revised Code; 9441
and all the facilities and community mental health services that 9442
are or will be in operation or provided during the period for 9443
which the plan will be in operation in the service district to 9444
meet such needs. 9445

The plan shall include, but not be limited to, a statement of 9446
which of the services listed in section 340.09 of the Revised Code 9447
the board intends to provide or purchase, an explanation of how 9448
the board intends to make any payments that it may be required to 9449
pay under section 5119.62 of the Revised Code, a statement of the 9450
inpatient and community-based services the board proposes that the 9451
department operate, an assessment of the number and types of 9452
residential facilities needed, and such other information as the 9453
department requests, and a budget for moneys the board expects to 9454
receive. The board shall also submit an allocation request for 9455
state and federal funds. Within sixty days after the department's 9456
determination that the plan and allocation request are complete, 9457
the department shall approve or disapprove the plan and request, 9458
in whole or in part, according to the criteria developed pursuant 9459
to section 5119.61 of the Revised Code. The department's statement 9460

of approval or disapproval shall specify the inpatient and the 9461
community-based services that the department will operate for the 9462
board. Eligibility for financial support shall be contingent upon 9463
an approved plan or relevant part of a plan. 9464

If the director disapproves all or part of any plan, the 9465
director shall inform the board of the reasons for the disapproval 9466
and of the criteria that must be met before the plan may be 9467
approved. The director shall provide the board an opportunity to 9468
present its case on behalf of the plan. The director shall give 9469
the board a reasonable time in which to meet the criteria, and 9470
shall offer the board technical assistance to help it meet the 9471
criteria. 9472

If the approval of a plan remains in dispute thirty days 9473
prior to the conclusion of the fiscal year in which the board's 9474
current plan is scheduled to expire, the board or the director may 9475
request that the dispute be submitted to a mutually agreed upon 9476
third-party mediator with the cost to be shared by the board and 9477
the department. The mediator shall issue to the board and the 9478
department recommendations for resolution of the dispute. Prior to 9479
the conclusion of the fiscal year in which the current plan is 9480
scheduled to expire, the director, taking into consideration the 9481
recommendations of the mediator, shall make a final determination 9482
and approve or disapprove the plan, in whole or in part. 9483

If a board determines that it is necessary to amend a plan or 9484
an allocation request that has been approved under division 9485
(A)(1)(c) of this section, the board shall submit a proposed 9486
amendment to the director. The director may approve or disapprove 9487
all or part of the amendment. If the director does not approve all 9488
or part of the amendment within thirty days after it is submitted, 9489
the amendment or part of it shall be considered to have been 9490
approved. The director shall inform the board of the reasons for 9491
disapproval of all or part of an amendment and of the criteria 9492

that must be met before the amendment may be approved. The 9493
director shall provide the board an opportunity to present its 9494
case on behalf of the amendment. The director shall give the board 9495
a reasonable time in which to meet the criteria, and shall offer 9496
the board technical assistance to help it meet the criteria. 9497

The board shall implement the plan approved by the 9498
department. 9499

(d) Receive, compile, and transmit to the department of 9500
mental health applications for state reimbursement; 9501

(e) Promote, arrange, and implement working agreements with 9502
social agencies, both public and private, and with judicial 9503
agencies. 9504

(2) Investigate, or request another agency to investigate, 9505
any complaint alleging abuse or neglect of any person receiving 9506
services from a community mental health agency as defined in 9507
section 5122.01 of the Revised Code, or from a residential 9508
facility licensed under section 5119.22 of the Revised Code. If 9509
the investigation substantiates the charge of abuse or neglect, 9510
the board shall take whatever action it determines is necessary to 9511
correct the situation, including notification of the appropriate 9512
authorities. Upon request, the board shall provide information 9513
about such investigations to the department. 9514

(3) For the purpose of section 5119.611 of the Revised Code, 9515
cooperate with the director of mental health in visiting and 9516
evaluating whether the services of a community mental health 9517
agency satisfy the certification standards established by rules 9518
adopted under that section; 9519

(4) In accordance with criteria established under division 9520
(G) of section 5119.61 of the Revised Code, review and evaluate 9521
the quality, effectiveness, and efficiency of services provided 9522
through its community mental health plan and submit its findings 9523

and recommendations to the department of mental health; 9524

(5) In accordance with section 5119.22 of the Revised Code, 9525
review applications for residential facility licenses and 9526
recommend to the department of mental health approval or 9527
disapproval of applications; 9528

(6) Audit, in accordance with rules adopted by the auditor of 9529
state pursuant to section 117.20 of the Revised Code, at least 9530
annually all programs and services provided under contract with 9531
the board. In so doing, the board may contract for or employ the 9532
services of private auditors. A copy of the fiscal audit report 9533
shall be provided to the director of mental health, the auditor of 9534
state, and the county auditor of each county in the board's 9535
district. 9536

(7) Recruit and promote local financial support for mental 9537
health programs from private and public sources; 9538

(8)(a) Enter into contracts with public and private 9539
facilities for the operation of facility services included in the 9540
board's community mental health plan and enter into contracts with 9541
public and private community mental health agencies for the 9542
provision of community mental health services listed in section 9543
340.09 of the Revised Code and included in the board's community 9544
mental health plan. Contracts with community mental health 9545
agencies are subject to section 5119.611 of the Revised Code. 9546
Section 307.86 of the Revised Code does not apply to contracts 9547
entered into under this division. In contracting with a community 9548
mental health agency, a board shall consider the cost 9549
effectiveness of services provided by that agency and the quality 9550
and continuity of care, and may review cost elements, including 9551
salary costs, of the services to be provided. A utilization review 9552
process shall be established as part of the contract for services 9553
entered into between a board and a community mental health agency. 9554

The board may establish this process in a way that is most 9555
effective and efficient in meeting local needs. In the case of a 9556
contract with a community mental health facility, as defined in 9557
section ~~5111.022~~ 5111.023 of the Revised Code, to provide services 9558
listed in division (B) of that section, the contract shall provide 9559
for the facility to be paid in accordance with the contract 9560
entered into between the departments of job and family services 9561
and mental health under section 5111.91 of the Revised Code and 9562
any rules adopted under division (A) of section 5119.61 of the 9563
Revised Code. 9564

If either the board or a facility or community mental health 9565
agency with which the board contracts under division (A)(8)(a) of 9566
this section proposes not to renew the contract or proposes 9567
substantial changes in contract terms, the other party shall be 9568
given written notice at least one hundred twenty days before the 9569
expiration date of the contract. During the first sixty days of 9570
this one hundred twenty-day period, both parties shall attempt to 9571
resolve any dispute through good faith collaboration and 9572
negotiation in order to continue to provide services to persons in 9573
need. If the dispute has not been resolved sixty days before the 9574
expiration date of the contract, either party may notify the 9575
department of mental health of the unresolved dispute. The 9576
director may require both parties to submit the dispute to a third 9577
party with the cost to be shared by the board and the facility or 9578
community mental health agency. The third party shall issue to the 9579
board, the facility or agency, and the department recommendations 9580
on how the dispute may be resolved twenty days prior to the 9581
expiration date of the contract, unless both parties agree to a 9582
time extension. The director shall adopt rules establishing the 9583
procedures of this dispute resolution process. 9584

(b) With the prior approval of the director of mental health, 9585
a board may operate a facility or provide a community mental 9586

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, 9649
and rehabilitation services and opportunities. The essential 9650
elements of the system include, but are not limited to, the 9651
following components in accordance with section 5119.06 of the 9652
Revised Code: 9653

(a) To locate persons in need of mental health services to 9654
inform them of available services and benefits mechanisms; 9655

(b) Assistance for clients to obtain services necessary to 9656
meet basic human needs for food, clothing, shelter, medical care, 9657
personal safety, and income; 9658

(c) Mental health care, including, but not limited to, 9659
outpatient, partial hospitalization, and, where appropriate, 9660
inpatient care; 9661

(d) Emergency services and crisis intervention; 9662

(e) Assistance for clients to obtain vocational services and 9663
opportunities for jobs; 9664

(f) The provision of services designed to develop social, 9665
community, and personal living skills; 9666

(g) Access to a wide range of housing and the provision of 9667
residential treatment and support; 9668

(h) Support, assistance, consultation, and education for 9669
families, friends, consumers of mental health services, and 9670
others; 9671

(i) Recognition and encouragement of families, friends, 9672
neighborhood networks, especially networks that include racial and 9673
ethnic minorities, churches, community organizations, and 9674
meaningful employment as natural supports for consumers of mental 9675
health services; 9676

(j) Grievance procedures and protection of the rights of 9677
consumers of mental health services; 9678

(k) Case management, which includes continual individualized 9679
assistance and advocacy to ensure that needed services are offered 9680
and procured. 9681

(12) Designate the treatment program, agency, or facility for 9682
each person involuntarily committed to the board pursuant to 9683
Chapter 5122. of the Revised Code and authorize payment for such 9684
treatment. The board shall provide the least restrictive and most 9685
appropriate alternative that is available for any person 9686
involuntarily committed to it and shall assure that the services 9687
listed in section 340.09 of the Revised Code are available to 9688
severely mentally disabled persons residing within its service 9689
district. The board shall establish the procedure for authorizing 9690
payment for services, which may include prior authorization in 9691
appropriate circumstances. The board may provide for services 9692
directly to a severely mentally disabled person when life or 9693
safety is endangered and when no community mental health agency is 9694
available to provide the service. 9695

(13) Establish a method for evaluating referrals for 9696
involuntary commitment and affidavits filed pursuant to section 9697
5122.11 of the Revised Code in order to assist the probate 9698
division of the court of common pleas in determining whether there 9699
is probable cause that a respondent is subject to involuntary 9700
hospitalization and what alternative treatment is available and 9701
appropriate, if any; 9702

(14) Ensure that apartments or rooms built, subsidized, 9703
renovated, rented, owned, or leased by the board or a community 9704
mental health agency have been approved as meeting minimum fire 9705
safety standards and that persons residing in the rooms or 9706
apartments are receiving appropriate and necessary services, 9707
including culturally relevant services, from a community mental 9708
health agency. This division does not apply to residential 9709
facilities licensed pursuant to section 5119.22 of the Revised 9710

Code. 9711

(15) Establish a mechanism for involvement of consumer 9712
recommendation and advice on matters pertaining to mental health 9713
services in the alcohol, drug addiction, and mental health service 9714
district; 9715

(16) Perform the duties under section 3722.18 of the Revised 9716
Code required by rules adopted under section 5119.61 of the 9717
Revised Code regarding referrals by the board or mental health 9718
agencies under contract with the board of individuals with mental 9719
illness or severe mental disability to adult care facilities and 9720
effective arrangements for ongoing mental health services for the 9721
individuals. The board is accountable in the manner specified in 9722
the rules for ensuring that the ongoing mental health services are 9723
effectively arranged for the individuals. 9724

(B) The board shall establish such rules, operating 9725
procedures, standards, and bylaws, and perform such other duties 9726
as may be necessary or proper to carry out the purposes of this 9727
chapter. 9728

(C) A board of alcohol, drug addiction, and mental health 9729
services may receive by gift, grant, devise, or bequest any 9730
moneys, lands, or property for the benefit of the purposes for 9731
which the board is established, and may hold and apply it 9732
according to the terms of the gift, grant, or bequest. All money 9733
received, including accrued interest, by gift, grant, or bequest 9734
shall be deposited in the treasury of the county, the treasurer of 9735
which is custodian of the alcohol, drug addiction, and mental 9736
health services funds to the credit of the board and shall be 9737
available for use by the board for purposes stated by the donor or 9738
grantor. 9739

(D) No board member or employee of a board of alcohol, drug 9740
addiction, and mental health services shall be liable for injury 9741

or damages caused by any action or inaction taken within the scope 9742
of the board member's official duties or the employee's 9743
employment, whether or not such action or inaction is expressly 9744
authorized by this section, section 340.033, or any other section 9745
of the Revised Code, unless such action or inaction constitutes 9746
willful or wanton misconduct. Chapter 2744. of the Revised Code 9747
applies to any action or inaction by a board member or employee of 9748
a board taken within the scope of the board member's official 9749
duties or employee's employment. For the purposes of this 9750
division, the conduct of a board member or employee shall not be 9751
considered willful or wanton misconduct if the board member or 9752
employee acted in good faith and in a manner that the board member 9753
or employee reasonably believed was in or was not opposed to the 9754
best interests of the board and, with respect to any criminal 9755
action or proceeding, had no reasonable cause to believe the 9756
conduct was unlawful. 9757

(E) The meetings held by any committee established by a board 9758
of alcohol, drug addiction, and mental health services shall be 9759
considered to be meetings of a public body subject to section 9760
121.22 of the Revised Code. 9761

Sec. 340.16. Not later than ninety days after ~~the effective~~ 9762
~~date of this section~~ September 5, 2001, the department of mental 9763
health and the department of job and family services shall adopt 9764
rules that establish requirements and procedures for prior 9765
notification and service coordination between public children 9766
services agencies and boards of alcohol, drug addiction, and 9767
mental health services when a public children services agency 9768
refers a child in its custody to a board for services funded by 9769
the board. The rules shall be adopted in accordance with Chapter 9770
119. of the Revised Code. 9771

The department of mental health and department of job and 9772

family services shall collaborate in formulating a plan that 9773
delineates the funding responsibilities of public children 9774
services agencies and boards of alcohol, drug addiction, and 9775
mental health services for services provided under section 9776
~~5111.022~~ 5111.023 of the Revised Code to children in the custody 9777
of public children services agencies. The departments shall 9778
complete the plan not later than ninety days after ~~the effective~~ 9779
~~date of this section~~ September 5, 2001. 9780

Sec. 341.192. (A) As used in this section: 9781

(1) "Medical assistance program" has the same meaning as in 9782
section 2913.40 of the Revised Code. 9783

(2) "Medical provider" means a physician, hospital, 9784
laboratory, pharmacy, or other health care provider that is not 9785
employed by or under contract to a county to provide medical 9786
services to persons confined in the county jail and that is a 9787
medicaid provider under the medical assistance program. 9788

(3) "Necessary care" means medical care of a nonelective 9789
nature that cannot be postponed until after the period of 9790
confinement of a person who is confined in a county jail or in the 9791
custody of a law enforcement officer without endangering the life 9792
or health of the person. 9793

(B) If a physician employed by or under contract to a county 9794
to provide medical services to persons confined in the county jail 9795
determines that a person who is confined in the county jail or who 9796
is in the custody of a law enforcement officer prior to the 9797
person's confinement in the county jail requires necessary care 9798
that the physician cannot provide, the necessary care shall be 9799
provided by a medical provider. The county shall pay a medical 9800
provider for necessary care an amount not exceeding the authorized 9801
reimbursement rate for the same service established by the 9802

department of job and family services under the medical assistance 9803
program. 9804

Sec. 718.09. (A) This section applies to either of the 9805
following: 9806

(1) A municipal corporation that shares the same territory as 9807
a city, local, or exempted village school district, to the extent 9808
that not more than five per cent of the territory of the municipal 9809
corporation is located outside the school district and not more 9810
than five per cent of the territory of the school district is 9811
located outside the municipal corporation; 9812

(2) A municipal corporation that shares the same territory as 9813
a city, local, or exempted village school district, to the extent 9814
that not more than five per cent of the territory of the municipal 9815
corporation is located outside the school district, more than five 9816
per cent but not more than ten per cent of the territory of the 9817
school district is located outside the municipal corporation, and 9818
that portion of the territory of the school district that is 9819
located outside the municipal corporation is located entirely 9820
within another municipal corporation having a population of four 9821
hundred thousand or more according to the federal decennial census 9822
most recently completed before the agreement is entered into under 9823
division (B) of this section. 9824

(B) ~~Before January 1, 2001, the~~ The legislative authority of 9825
a municipal corporation to which this section applies may propose 9826
to the electors an income tax, one of the purposes of which shall 9827
be to provide financial assistance to the school district through 9828
payment to the district of not less than twenty-five per cent of 9829
the revenue generated by the tax. Prior to proposing the tax, the 9830
legislative authority shall negotiate and enter into a written 9831
agreement with the board of education of the school district 9832
specifying the tax rate, the percentage of tax revenue to be paid 9833

to the school district, the purpose for which the school district 9834
will use the money, the first year the tax will be levied, the 9835
date of the special election on the question of the tax, and the 9836
method and schedule by which the municipal corporation will make 9837
payments to the school district. The special election shall be 9838
held ~~before January 1, 2001,~~ on a day specified in division (D) of 9839
section 3501.01 of the Revised Code, except that the special 9840
election may not be held on the day for holding a primary election 9841
as authorized by the municipal corporation's charter unless the 9842
municipal corporation is to have a primary election on that day. 9843

After the legislative authority and board of education have 9844
entered into the agreement, the legislative authority shall 9845
provide for levying the tax by ordinance. The ordinance shall 9846
state the tax rate, the percentage of tax revenue to be paid to 9847
the school district, the purpose for which the municipal 9848
corporation will use its share of the tax revenue, the first year 9849
the tax will be levied, and that the question of the income tax 9850
will be submitted to the electors of the municipal corporation. 9851
The legislative authority also shall adopt a resolution specifying 9852
the regular or special election date the election will be held and 9853
directing the board of elections to conduct the election. At least 9854
seventy-five days before the date of the election, the legislative 9855
authority shall file certified copies of the ordinance and 9856
resolution with the board of elections. 9857

(C) The board of elections shall make the necessary 9858
arrangements for the submission of the question to the electors of 9859
the municipal corporation, and shall conduct the election in the 9860
same manner as any other municipal income tax election. Notice of 9861
the election shall be published in a newspaper of general 9862
circulation in the municipal corporation once a week for four 9863
consecutive weeks prior to the election, and shall include 9864
statements of the rate and municipal corporation and school 9865

district purposes of the income tax, the percentage of tax revenue 9866
that will be paid to the school district, and the first year the 9867
tax will be levied. The ballot shall be in the following form: 9868

"Shall the ordinance providing for a per cent levy on 9869
income for (brief description of the municipal corporation and 9870
school district purposes of the levy, including a statement of the 9871
percentage of tax revenue that will be paid to the school 9872
district) be passed? 9873

	For the income tax	
	Against the income tax	"

(D) If the question is approved by a majority of the 9874
electors, the municipal corporation shall impose the income tax 9875
beginning in the year specified in the ordinance. The proceeds of 9876
the levy may be used only for the specified purposes, including 9877
payment of the specified percentage to the school district. 9878

Sec. 718.10. (A) This section applies to a group of two or 9879
more municipal corporations that, taken together, share the same 9880
territory as a single city, local, or exempted village school 9881
district, to the extent that not more than five per cent of the 9882
territory of the municipal corporations as a group is located 9883
outside the school district and not more than five per cent of the 9884
territory of the school district is located outside the municipal 9885
corporations as a group. 9886

(B) ~~Before January 1, 2001, the~~ The legislative authorities 9887
of the municipal corporations in a group of municipal corporations 9888
to which this section applies each may propose to the electors an 9889
income tax, to be levied in concert with income taxes in the other 9890
municipal corporations of the group. One of the purposes of such a 9891

tax shall be to provide financial assistance to the school 9896
district through payment to the district of not less than 9897
twenty-five per cent of the revenue generated by the tax. Prior to 9898
proposing the taxes, the legislative authorities shall negotiate 9899
and enter into a written agreement with each other and with the 9900
board of education of the school district specifying the tax rate, 9901
the percentage of the tax revenue to be paid to the school 9902
district, the first year the tax will be levied, and the date of 9903
the election on the question of the tax, all of which shall be the 9904
same for each municipal corporation. The agreement also shall 9905
state the purpose for which the school district will use the 9906
money, and specify the method and schedule by which each municipal 9907
corporation will make payments to the school district. The special 9908
election shall be held ~~before January 1, 2001,~~ on a day specified 9909
in division (D) of section 3501.01 of the Revised Code, including 9910
a day on which all of the municipal corporations are to have a 9911
primary election. 9912

After the legislative authorities and board of education have 9913
entered into the agreement, each legislative authority shall 9914
provide for levying its tax by ordinance. Each ordinance shall 9915
state the rate of the tax, the percentage of tax revenue to be 9916
paid to the school district, the purpose for which the municipal 9917
corporation will use its share of the tax revenue, and the first 9918
year the tax will be levied. Each ordinance also shall state that 9919
the question of the income tax will be submitted to the electors 9920
of the municipal corporation on the same date as the submission of 9921
questions of an identical tax to the electors of each of the other 9922
municipal corporations in the group, and that unless the electors 9923
of all of the municipal corporations in the group approve the tax 9924
in their respective municipal corporations, none of the municipal 9925
corporations in the group shall levy the tax. Each legislative 9926
authority also shall adopt a resolution specifying the regular or 9927
special election date the election will be held and directing the 9928

board of elections to conduct the election. At least seventy-five
days before the date of the election, each legislative authority
shall file certified copies of the ordinance and resolution with
the board of elections.

(C) For each of the municipal corporations, the board of
elections shall make the necessary arrangements for the submission
of the question to the electors, and shall conduct the election in
the same manner as any other municipal income tax election. For
each of the municipal corporations, notice of the election shall
be published in a newspaper of general circulation in the
municipal corporation once a week for four consecutive weeks prior
to the election. The notice shall include a statement of the rate
and municipal corporation and school district purposes of the
income tax, the percentage of tax revenue that will be paid to the
school district, and the first year the tax will be levied, and an
explanation that the tax will not be levied unless an identical
tax is approved by the electors of each of the other municipal
corporations in the group. The ballot shall be in the following
form:

"Shall the ordinance providing for a ... per cent levy on
income for (brief description of the municipal corporation and
school district purposes of the levy, including a statement of the
percentage of income tax revenue that will be paid to the school
district) be passed? In order for the income tax to be levied, the
voters of (the other municipal corporations in the group), which
are also in the (name of the school district) school district,
must approve an identical income tax and agree to pay the same
percentage of the tax revenue to the school district.

	For the income tax
	Against the income tax

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(D) If the question is approved by a majority of the electors 9961
and identical taxes are approved by a majority of the electors in 9962
each of the other municipal corporations in the group, the 9963
municipal corporation shall impose the tax beginning in the year 9964
specified in the ordinance. The proceeds of the levy may be used 9965
only for the specified purposes, including payment of the 9966
specified percentage to the school district. 9967

Sec. 723.52. Before letting or making any contract for the 9968
construction, reconstruction, widening, resurfacing, or repair of 9969
a street or other public way, the director of public service in a 9970
city, or the legislative authority in a village, shall make an 9971
estimate of the cost of such work using the force account project 9972
assessment form developed by the auditor of state under section 9973
117.16 of the Revised Code. In municipal corporations having an 9974
engineer, or an officer having a different title but the duties 9975
and functions of an engineer, the estimate shall be made by the 9976
engineer or other officer. Where the total estimated cost of any 9977
such work is thirty thousand dollars or the amount adjusted under 9978
section 117.162 of the Revised Code or less than that amount, the 9979
proper officers may proceed by force account. 9980

Where the total estimated cost of any such work exceeds 9981
thirty thousand dollars or the amount adjusted under section 9982
117.162 of the Revised Code, the proper officers of the municipal 9983
corporation shall be required to invite and receive competitive 9984
bids for furnishing all the labor, materials, and equipment and 9985
doing the work, after newspaper advertisement as provided by law. 9986
The officers shall consider and may reject such bids. If the bids 9987
are rejected, the officers may order the work done by force 9988
account or direct labor. When such bids are received, considered, 9989
and rejected, and the work done by force account or direct labor, 9990

such work shall be performed in compliance with the plans and 9991
specifications upon which the bids were based. It shall be 9992
unlawful to divide a street or connecting streets into separate 9993
sections for the purpose of defeating this section and section 9994
723.53 of the Revised Code. 9995

"Street," as used in such sections, includes portions of 9996
connecting streets on which the same or similar construction, 9997
reconstruction, widening, resurfacing, or repair is planned or 9998
projected. 9999

Sec. 723.53. Where the proper officers of any municipal 10000
corporation construct, reconstruct, widen, resurface, or repair a 10001
street or other public way by force account or direct labor, and 10002
the estimated cost of the work as defined in section 723.52 of the 10003
Revised Code exceeds thirty thousand dollars or the amount 10004
adjusted under section 117.162 of the Revised Code, such municipal 10005
authorities shall cause to be kept by the engineer of the 10006
municipal corporation, or other officer or employee of the 10007
municipal corporation in charge of such work, a complete and 10008
accurate account, in detail, of the cost of doing the work. The 10009
account shall include labor, materials, freight, fuel, hauling, 10010
overhead expense, workers' compensation premiums, and all other 10011
items of cost and expense, including a reasonable allowance for 10012
the use of all tools and equipment used on or in connection with 10013
such work and for the depreciation on the tools and equipment. The 10014
engineer or other officer or employee shall keep such account, and 10015
within ninety days after the completion of any such work shall 10016
prepare a detailed and itemized statement of such cost and file 10017
the statement with the officer or board vested with authority to 10018
direct the doing of the work in question. Such officer or board 10019
shall thereupon examine the statement, correct it if necessary, 10020
and file it in the office of the officer or board. Such statement 10021
shall be kept on file for not less than two years and shall be 10022

open to public inspection. 10023

This section and section 723.52 of the Revised Code do not 10024
apply to any municipal corporations having a charter form of 10025
government. 10026

Sec. 742.59. The board of trustees of the Ohio police and 10027
fire pension fund shall be the trustee of the funds created as 10028
follows: 10029

(A) The "police officers' contribution fund" is the fund in 10030
which shall be credited the contributions deducted from the 10031
salaries of members of police departments and paid into the Ohio 10032
police and fire pension fund, as provided by section 742.31 of the 10033
Revised Code, and that percentage of the employers' accrued 10034
liability that is attributable to deductions previously made from 10035
the salaries of members of the police department who are still in 10036
the active service at the time that portion of the employers' 10037
accrued liability is paid. The accumulated contributions of a 10038
member of a police department shall be transferred at the member's 10039
retirement from the police officers' contribution fund to the 10040
police officers' pension reserve fund. 10041

(B) The "firefighters' contribution fund" is the fund in 10042
which shall be credited contributions deducted from the salaries 10043
of members of fire departments and paid into the Ohio police and 10044
fire pension fund, as provided by section 742.31 of the Revised 10045
Code, and that percentage of the employers' accrued liability that 10046
is attributable to deductions previously made from the salaries of 10047
members of the fire department who are still in the active service 10048
at the time that portion of the employers' accrued liability is 10049
paid. The accumulated contributions of a member of a fire 10050
department shall be transferred at the member's retirement from 10051
the firefighters' contribution fund to the firefighters' pension 10052
reserve fund. 10053

(C) The "police officer employers' contribution fund" is the 10054
fund to which the following shall be credited: 10055

(1) The police officer employers' contribution, as provided 10056
by section 742.33 of the Revised Code, ~~and that;~~ 10057

(2) The percentage of the employers' accrued liability that 10058
is attributable to the employers' liability for prior service of 10059
members of the police department who are still in the active 10060
service at the time that portion of the employers' accrued 10061
liability is paid, ~~and that portion of the state contribution~~ 10062
~~allocated to such fund, as provided by section 742.36 of the~~ 10063
~~Revised Code, shall be credited, and in which shall be~~ 10064
~~accumulated.~~ 10065

In the police officer employers' contribution fund shall 10066
accumulate the reserves held in trust for the payment of all 10067
pensions or other benefits provided by sections 742.01 to 742.61 10068
of the Revised Code to members of a police department retiring in 10069
the future or their qualified beneficiaries and from which the 10070
reserves for such pensions and other benefits shall be transferred 10071
to the police officers' pension reserve fund. 10072

(D) The "firefighter employers' contribution fund" is the 10073
fund to which the following shall be credited: 10074

(1) The firefighter employers' contribution, as provided in 10075
section 742.34 of the Revised Code, ~~and that;~~ 10076

(2) The percentage of the employers' accrued liability that 10077
is attributable to the employers' liability for prior service for 10078
members of the fire department who are still in the active service 10079
at the time that portion of the employers' accrued liability is 10080
paid, ~~and that portion of the state contribution allocated to such~~ 10081
~~fund, as provided by section 742.36 of the Revised Code, shall be~~ 10082
~~credited, and in which shall be accumulated.~~ 10083

In the firefighter employers' contribution fund shall 10084
accumulate the reserves held in trust for the payment of all 10085
pensions and other benefits provided by sections 742.01 to 742.61 10086
of the Revised Code to members of a fire department retiring in 10087
the future or their qualified beneficiaries and from which the 10088
reserves for such pensions and other benefits shall be transferred 10089
to the firefighters' pension reserve fund. 10090

(E) The "police officers' pension reserve fund" is the fund 10091
from which shall be paid all pensions and other benefits for which 10092
reserves have been transferred from the police officers' 10093
contribution fund and the police officer employers' contribution 10094
fund, and to which shall be credited that percentage of the 10095
employers' accrued liability that is attributable to the total of 10096
deductions previously made from the salaries of members of the 10097
police department who are retired and are receiving pensions or 10098
other benefits, or whose beneficiaries are receiving benefits, at 10099
the time that portion of the employers' accrued liability is paid, 10100
and that percentage of the employers' accrued liability that is 10101
attributable to prior service of members of the police department 10102
who are retired and are receiving pensions or other benefits, or 10103
whose beneficiaries are receiving benefits, at the time that 10104
portion of the employers' accrued liability is paid. 10105

(F) The "firefighters' pension reserve fund" is the fund from 10106
which shall be paid all pensions and other benefits for which 10107
reserves have been transferred from the firefighters' contribution 10108
fund and the firefighter employers' contribution fund, and to 10109
which shall be credited that percentage of the employers' accrued 10110
liability that is attributable to the total of deductions 10111
previously made from the salaries of members of the fire 10112
department who are retired and are receiving pensions or other 10113
benefits, or whose beneficiaries are receiving benefits, at the 10114
time that portion of the employers' accrued liability is paid, and 10115

that percentage of the employers' accrued liability that is 10116
attributable to prior service of members of the fire department 10117
who are retired and are receiving pensions or other benefits, or 10118
whose beneficiaries are receiving benefits, at the time that 10119
portion of the employers' accrued liability is paid. 10120

(G) The "guarantee fund" is the fund from which interest is 10121
transferred and credited on the amounts in the funds described in 10122
divisions (C), (D), (E), and (F) of this section, and is a 10123
contingent fund from which the special requirements of said funds 10124
may be paid by transfer from this fund. All income derived from 10125
the investment of funds by the board of trustees of the Ohio 10126
police and fire pension fund as trustee under section 742.11 of 10127
the Revised Code, together with all gifts and bequests or the 10128
income therefrom, shall be paid into this fund. 10129

Any deficit occurring in any other fund that will not be 10130
covered by payments to that fund, as otherwise provided by 10131
sections 742.01 to 742.61 of the Revised Code, shall be paid by 10132
transfers of amounts from the guarantee fund to such fund or 10133
funds. Should the amount in the guarantee fund be insufficient at 10134
any time to meet the amounts payable therefrom, the amount of such 10135
deficiency, with regular interest, shall be paid by an additional 10136
employer rate of current contribution as determined by the actuary 10137
and shall be approved by the board of trustees of the Ohio police 10138
and fire pension fund, and the amount of such additional employer 10139
contribution shall be credited to the guarantee fund. 10140

The board may accept gifts and bequests. Any funds that may 10141
come into the possession of the board in this manner, or any other 10142
funds whose disposition is not otherwise provided for, shall be 10143
credited to the guarantee fund. 10144

(H) The "expense fund" is the fund from which shall be paid 10145
the expenses for the administration and management of the Ohio 10146

police and fire pension fund, as provided by sections 742.01 to 10147
742.61 of the Revised Code, and to which shall be credited from 10148
the guarantee fund an amount sufficient to pay the expenses of 10149
operation. 10150

Sec. 901.43. (A) The director of agriculture may authorize 10151
any department of agriculture laboratory to perform a laboratory 10152
service for any person, organization, political subdivision, state 10153
agency, federal agency, or other entity, whether public or 10154
private. The director shall adopt and enforce rules to provide for 10155
the rendering of a laboratory service. 10156

(B) The director may charge a reasonable fee for the 10157
performance of a laboratory service, except when the service is 10158
performed on an official sample taken by the director acting 10159
pursuant to Title IX, Chapter 3715., or Chapter 3717. of the 10160
Revised Code; by a board of health acting as the licensor of 10161
retail food establishments or food service operations under 10162
Chapter 3717. of the Revised Code; or by the director of health 10163
acting as the licensor of food service operations under Chapter 10164
3717. of the Revised Code. The director of agriculture shall adopt 10165
rules specifying what constitutes an official sample. 10166

The director shall publish a list of laboratory services 10167
offered, together with the fee for each service. 10168

(C) The director may enter into a contract with any person, 10169
organization, political subdivision, state agency, federal agency, 10170
or other entity for the provision of a laboratory service. 10171

(D)(1) The director may adopt rules establishing standards 10172
for accreditation of laboratories and laboratory services and in 10173
doing so may adopt by reference existing or recognized standards 10174
or practices. 10175

(2) The director may inspect and accredit laboratories and 10176

laboratory services, and may charge a reasonable fee for the 10177
inspections and accreditation. 10178

(E)(1) ~~All~~ There is hereby created in the state treasury the 10179
animal and consumer analytical laboratory service fund. Moneys 10180
from the following sources shall be deposited into the state 10181
treasury to the credit of the fund: all moneys collected by the 10182
director under this section that are from fees generated by a 10183
laboratory service performed by the department and related to the 10184
diseases of animals, ~~and~~ all moneys so collected that are from 10185
fees generated for the inspection and accreditation of 10186
laboratories and laboratory services related to the diseases of 10187
animals, ~~shall be deposited in the animal industry laboratory~~ 10188
~~fund, which is hereby created in the state treasury. The director~~ 10189
~~shall use the moneys in the animal industry laboratory fund to pay~~ 10190
~~the expenses necessary to operate the animal industry laboratory,~~ 10191
~~including the purchase of supplies and equipment.~~ 10192

~~(2)~~ ~~All~~ all moneys collected by the director under this 10193
section that are from fees generated by a laboratory service 10194
performed by the consumer analytical laboratory, and all moneys so 10195
collected that are from fees generated for the inspection and 10196
accreditation of laboratories and laboratory services not related 10197
to weights and measures ~~or the diseases of animals, shall be~~ 10198
~~deposited in the laboratory services fund, which is hereby created~~ 10199
~~in the state treasury. The~~ director may use the moneys held in the 10200
fund ~~may be used~~ to pay the expenses necessary to operate the 10201
animal industry laboratory and the consumer analytical laboratory, 10202
including the purchase of supplies and equipment. 10203

~~(3)~~ (2) All moneys collected by the director under this 10204
section that are from fees generated by a laboratory service 10205
performed by the weights and measures laboratory, and all moneys 10206
so collected that are from fees generated for the inspection and 10207
accreditation of laboratories and laboratory services related to 10208

weights and measures, shall be deposited in the state treasury to 10209
the credit of the weights and measures laboratory fund, which is 10210
hereby created in the state treasury. The moneys held in the fund 10211
may be used to pay the expenses necessary to operate the division 10212
of weights and measures, including the purchase of supplies and 10213
equipment. 10214

Sec. 901.44. There is hereby created in the state treasury 10215
the laboratory and administrative support fund. The department of 10216
agriculture shall deposit the following moneys received by the 10217
department to the credit of the fund: payment for the rental of 10218
the department's auditoriums by outside parties and reimbursement 10219
for related utility expenses, laboratory fees that are not 10220
designated for deposit into another fund, and other miscellaneous 10221
moneys that are not designated for deposit into another fund. The 10222
department may use moneys in the fund to pay costs associated with 10223
any program of the department as the director of agriculture sees 10224
fit. 10225

Sec. 905.32. (A) No person shall manufacture or distribute in 10226
this state any type of fertilizer until a license to manufacture 10227
or distribute has been obtained by the manufacturer or distributor 10228
from the department of agriculture upon payment of a five dollar 10229
fee: 10230

(1) For each fixed (permanent) location at which fertilizer 10231
is manufactured in this state; 10232

(2) For each mobile unit used to manufacture fertilizer in 10233
this state; 10234

(3) For each location out of the state from which fertilizer 10235
is distributed in this state to nonlicensees. 10236

All licenses ~~expire on the thirtieth day of June of each~~ 10237
shall be valid for one year beginning on the first day of December 10238

of a calendar year through the thirtieth day of November of the 10239
following calendar year. A renewal application for a license shall 10240
be submitted ~~no earlier than the first day of June each year and~~ 10241
no later than the thirtieth day of ~~June~~ November each year. A 10242
person who submits a renewal application for a license after the 10243
thirtieth day of ~~June~~ November shall include with the application 10244
a late filing fee of ten dollars. 10245

(B) An application for license shall include: 10246

(1) The name and address of the licensee; 10247

(2) The name and address of each bulk distribution point in 10248
the state, not licensed for fertilizer manufacture and 10249
distribution. 10250

The name and address shown on the license shall be shown on 10251
all labels, pertinent invoices, and bulk storage for fertilizers 10252
distributed by the licensee in this state. 10253

(C) The licensee shall inform the director of agriculture in 10254
writing of additional distribution points established during the 10255
period of the license. 10256

Sec. 905.33. (A) Except as provided in division (C) of this 10257
section, no person shall distribute in this state a specialty 10258
fertilizer until it is registered by the manufacturer or 10259
distributor with the department of agriculture. An application, in 10260
duplicate, for each brand and product name of each grade of 10261
specialty fertilizer shall be made on a form furnished by the 10262
director of agriculture and shall be accompanied with a fee of 10263
fifty dollars for each brand and product name of each grade. 10264
Labels for each brand and product name of each grade shall 10265
accompany the application. Upon the approval of an application by 10266
the director, a copy of the registration shall be furnished the 10267
applicant. All registrations ~~expire on the thirtieth day of June~~ 10268

~~of each shall be valid for one year beginning on the first day of~~ 10269
~~December of a calendar year through the thirtieth day of November~~ 10270
~~of the following calendar year.~~ 10271

(B) An application for registration shall include the 10272
following: 10273

(1) Name and address of the manufacturer or distributor; 10274

(2) The brand and product name; 10275

(3) The grade; 10276

(4) The guaranteed analysis; 10277

(5) The package sizes for persons that package fertilizers 10278
only in containers of ten pounds or less. 10279

(C)(1) No person who engages in the business of applying 10280
custom mixed fertilizer to lawns, golf courses, recreation areas, 10281
or other real property that is not used for agricultural 10282
production shall be required to register the custom mixed 10283
fertilizer as a specialty fertilizer in accordance with division 10284
(A) of this section if the fertilizer ingredients of the custom 10285
mixed fertilizer are registered as specialty fertilizers and the 10286
inspection fee described in division (A) of section 905.36 of the 10287
Revised Code is paid. 10288

(2) No person who engages in the business of blending custom 10289
mixed fertilizer for use on lawns, golf courses, recreation areas, 10290
or other real property that is not used for agricultural 10291
production shall be required to register the custom mixed 10292
fertilizer as a specialty fertilizer in accordance with division 10293
(A) of this section if the facility holds a nonagricultural 10294
production custom mixed fertilizer blender license issued under 10295
section 905.331 of the Revised Code. 10296

(D) A person who engages in the business of applying or 10297
blending custom mixed fertilizer as described in division (C) of 10298

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 10361
of fees due, plus penalty, shall constitute a debt and become the 10362
basis of a judgment against the licensee or registrant. For 10363
tonnage reports found to be incorrect, a penalty of fifteen per 10364
cent of the amount due shall be assessed against the licensee or 10365
registrant and shall constitute a debt and become the basis of a 10366
judgment against the licensee or registrant. 10367

(C) No information furnished under this section shall be 10368
disclosed by any employee of the department of agriculture in such 10369
a way as to divulge the operation of any person required to make 10370
such a report. The filing by a licensee or registrant of a sales 10371
volume tonnage statement required by division (B) of this section 10372
thereby grants permission to the director to verify the same with 10373
the records of the licensee or registrant. 10374

Sec. 905.37. (A) The director of agriculture ~~shall~~ may 10375
distribute annual statements of fertilizer sales by grades of 10376
materials and mixed fertilizer by counties, in a manner prescribed 10377
by the director. 10378

(B) The director ~~shall~~ may publish ~~at least~~ annually a report 10379
of the analysis of fertilizers inspected. 10380

(C) The director may distribute a state fertilizer usage 10381
report by grade of materials and mixed fertilizers for each month. 10382

Sec. 905.38. The commercial feed, fertilizer, seed, and lime 10383
inspection and laboratory fund is hereby created in the state 10384
treasury. All moneys collected by the director of agriculture 10385
under sections 905.31 to 905.50 of the Revised Code, shall be 10386
deposited into the fund. Moneys credited to the fund under this 10387
section and sections 905.66, 907.16, and 923.46 of the Revised 10388
Code shall be used for administering and enforcing this chapter 10389
and ~~Chapter~~ Chapters 907. and 923. of the Revised Code and rules 10390

adopted under them. 10391

Sec. 905.381. The director of agriculture shall keep accurate 10392
accounts of all receipts and disbursements from the commercial 10393
feed, fertilizer, seed, and lime inspection and laboratory fund, 10394
and shall prepare, and provide upon request, an annual report 10395
classifying the receipts and disbursements as pertaining to either 10396
feed, fertilizer, seed, or lime. 10397

Sec. 905.50. If the director of agriculture has taken an 10398
official sample of a fertilizer or mixed fertilizer and determined 10399
that it constitutes mislabeled fertilizer pursuant to rules 10400
adopted under section 905.40 of the Revised Code, the person who 10401
labeled the fertilizer or mixed fertilizer shall pay a penalty to 10402
the consumer of the mislabeled fertilizer or, if the consumer 10403
cannot be determined with reasonable diligence or is not 10404
available, to the director for deposit into the commercial feed, 10405
fertilizer, seed, and lime inspection and laboratory fund created 10406
under section 905.38 of the Revised Code. The amount of the 10407
penalty shall be calculated in accordance with either division (A) 10408
or (B) of this section, whichever method of calculation yields the 10409
largest amount. 10410

(A)(1) A penalty required to be paid under this section may 10411
be calculated as follows: 10412

(a) Five dollars for each percentage point of total nitrogen 10413
or phosphorus in the fertilizer that is below the percentage of 10414
nitrogen or phosphorus guaranteed on the label, multiplied by the 10415
number of tons of mislabeled fertilizer that have been sold to the 10416
consumer; 10417

(b) Three dollars for each percentage point of potash in the 10418
fertilizer that is below the percentage of potash guaranteed on 10419
the label, multiplied by the number of tons of mislabeled 10420

fertilizer that have been sold to the consumer. 10421

(2) In the case of a fertilizer that contains a quantity of 10422
nitrogen, phosphorus, or potash that is more than five percentage 10423
points below the percentages guaranteed on the label, the 10424
penalties calculated under division (A)(1) of this section shall 10425
be tripled. 10426

(3) No penalty calculated under division (A) of this section 10427
shall be less than twenty-five dollars. 10428

(B) A penalty required to be paid under this section may be 10429
calculated by multiplying the market value of one unit of the 10430
mislabeled fertilizer by the number of units of the mislabeled 10431
fertilizer that have been sold to the consumer. 10432

(C) Upon making a determination under this section that a 10433
person has mislabeled fertilizer or mixed fertilizer, the director 10434
shall determine the parties to whom the penalty imposed by this 10435
section is required to be paid and, in accordance with division 10436
(A) or (B) of this section, as applicable, shall calculate the 10437
amount of the penalty required to be paid to each such party. 10438
After completing those determinations and calculations, the 10439
director shall issue to the person who allegedly mislabeled the 10440
fertilizer or mixed fertilizer a notice of violation. The notice 10441
shall be accompanied by an order requiring, and specifying the 10442
manner of, payment of the penalty imposed by this section to the 10443
parties in the amounts set forth in the determinations and 10444
calculations required by this division. The order shall be issued 10445
in accordance with Chapter 119. of the Revised Code. 10446

No person shall violate a term or condition of an order 10447
issued under this division. 10448

Sec. 905.501. (A) As used in this section, ~~"political:~~ 10449

(1) "Political subdivision" means a county, township, or 10450

municipal corporation and any other body corporate and politic 10451
that is responsible for government activities in a geographic area 10452
smaller than that of the state. 10453

(2) "Local legislation" includes, but is not limited to, an 10454
ordinance, resolution, regulation, rule, motion, or amendment that 10455
is enacted or adopted by a political subdivision. 10456

(B)(1) No political subdivision shall regulate the 10457
registration, packaging, labeling, sale, storage, distribution, 10458
use, or application of fertilizer, or require a person licensed or 10459
registered under sections 905.31 to 905.99 of the Revised Code to 10460
obtain a license or permit to operate in a manner described in 10461
those sections, or to satisfy any other condition except as 10462
provided by a statute or rule of this state or of the United 10463
States. 10464

(2) No political subdivision shall enact, adopt, or continue 10465
in effect local legislation relating to the registration, 10466
packaging, labeling, sale, storage, distribution, use, or 10467
application of fertilizers. 10468

Sec. 905.66. All moneys collected by the director of 10469
agriculture under sections 905.51 to 905.65 of the Revised Code 10470
shall be deposited into the commercial feed, fertilizer, seed, and 10471
lime inspection and laboratory fund created under section 905.38 10472
of the Revised Code. 10473

The director shall prepare and provide a report concerning 10474
the fund in accordance with section 905.381 of the Revised Code. 10475

Sec. 907.111. (A) The department of agriculture has sole and 10476
exclusive authority to regulate the registration, labeling, sale, 10477
storage, transportation, distribution, notification of use, use, 10478
and planting of seed within the state. The regulation of seed is a 10479
matter of general statewide interest that requires uniform 10480

statewide regulation, and this chapter and rules adopted under it 10481
constitute a comprehensive plan with respect to all aspects of the 10482
regulation of seed within this state. 10483

(B) No political subdivision shall do any of the following: 10484

(1) Regulate the registration, labeling, sale, storage, 10485
transportation, distribution, notification of use, use, or 10486
planting of seed; 10487

(2) Require a person who has been issued a permit or license 10488
under this chapter to obtain a permit or license to operate in a 10489
manner described in this chapter or to satisfy any other condition 10490
except as provided by a statute or rule of this state or of the 10491
United States; 10492

(3) Require a person who has registered a legume inoculant 10493
under this chapter to register that inoculant in a manner 10494
described in this chapter or to satisfy any other condition except 10495
as provided by a statute or rule of this state or of the United 10496
States. 10497

(C) No political subdivision shall enact, adopt, or continue 10498
in effect local legislation relating to the permitting or 10499
licensure of any person who is required to obtain a permit or 10500
license under this chapter or to the registration, labeling, sale, 10501
storage, transportation, distribution, notification of use, use, 10502
or planting of seed. 10503

(D) As used in this section, "political subdivision" and 10504
"local legislation" have the same meanings as in section 905.501 10505
of the Revised Code. 10506

Sec. 907.16. All money collected by the director of 10507
agriculture under sections 907.01 to 907.17 of the Revised Code 10508
shall be deposited into the treasury of the state to the credit of 10509

the commercial feed, fertilizer, seed, and lime inspection and 10510
laboratory fund, which is hereby created in the state treasury. 10511
~~Money credited to the fund shall be used to administer and enforce~~ 10512
~~those sections and rules adopted under them~~ section 905.38 of the 10513
Revised Code. 10514

Sec. 911.02. Each person, firm, partnership, or corporation 10515
that owns or operates a bakery shall register each bakery that it 10516
owns or operates with the director of agriculture. For the 10517
registration, the owner or operator of each bakery shall pay an 10518
annual fee of ~~thirty~~ sixty dollars for a production capacity of 10519
one thousand pounds of bakery product per hour or less and an 10520
annual fee of ~~thirty~~ sixty dollars for each one thousand pounds of 10521
bakery product per hour capacity, or part thereof, in excess of 10522
one thousand pounds of bakery product per hour. 10523

Any person who owns or operates a home bakery with only one 10524
oven, in a stove of ordinary home kitchen design and located in a 10525
home, used for the baking of baked goods to be sold, shall pay a 10526
sum of ~~ten~~ twenty dollars annually for registration regardless of 10527
the capacity of the home bakery oven. The registration shall be 10528
renewed annually by the thirtieth day of September and shall be 10529
renewed according to the standard renewal procedure of Chapter 10530
4745. of the Revised Code. The registration of the bakery shall 10531
show the location, including municipal corporation, street, and 10532
number, the name of the owner, and the name of the operator. The 10533
application for registration shall be made on a form prescribed 10534
and provided by the director. All moneys received from 10535
registration fees and fines collected under sections 911.01 to 10536
911.20 of the Revised Code shall be deposited with the treasurer 10537
of state to the credit of the food safety fund created in section 10538
915.24 of the Revised Code. All annual renewal registration fees 10539
required by this section shall be paid by the applicant for the 10540
renewal to the treasurer of state for deposit into the food safety 10541

fund. 10542

No bakery product that is manufactured in an out-of-state 10543
bakery shall be sold or offered for sale within this state unless 10544
the bakery is in compliance with sections 911.01 to 911.20 of the 10545
Revised Code, and is registered, having paid the annual 10546
registration fee. 10547

Registration of out-of-state bakeries is not required if a 10548
reciprocal agreement is in effect whereby a bakery located in this 10549
state is not subject to a license or registration fee by the 10550
receiving state or a political subdivision thereof. 10551

Sec. 913.02. No person, firm, or corporation shall engage in 10552
the business of operating a cannery without obtaining a license 10553
for the operation of each cannery from the director of 10554
agriculture. 10555

In order to obtain a license, an application shall be made on 10556
a form prescribed by the director and shall be accompanied by a 10557
fee of ~~one~~ two hundred dollars. The director shall thereupon cause 10558
an investigation to be made. If the applicant is supplied with the 10559
facilities necessary for complying with sections 913.01 to 913.05 10560
of the Revised Code and rules adopted under them, a license shall 10561
be issued and shall be effective until the thirtieth day of June, 10562
and shall become invalid on that date unless renewed. The fee for 10563
each renewal is ~~one~~ two hundred dollars. License fees and renewal 10564
fees shall be deposited to the credit of the food safety fund 10565
created in section 915.24 of the Revised Code. 10566

The director may suspend or revoke any license for failure to 10567
comply with sections 913.01 to 913.05 of the Revised Code, or any 10568
rule or order adopted under those sections. In such event, the 10569
cannery immediately shall cease operation. 10570

Sec. 913.23. (A) The director of agriculture may issue 10571

licenses as required by sections 913.22 to 913.28 of the Revised 10572
Code, may make the inspections and registrations required by those 10573
sections, and may prescribe the form of application to be filed 10574
under this section. 10575

(B) No person shall manufacture or bottle for sale within 10576
this state any soft drink in closed containers unless the person 10577
has a license issued by the director. Upon receipt of an 10578
application for such a license, the director shall examine the 10579
products and the place of manufacture where the business is to be 10580
conducted, to determine whether the products and place comply with 10581
sections 913.22 to 913.28 of the Revised Code. Upon finding there 10582
is compliance, and upon payment of a license fee of ~~one~~ two 10583
hundred dollars, the director shall issue a license authorizing 10584
the applicant to manufacture or bottle for sale such soft drinks, 10585
subject to sections 913.22 to 913.28 of the Revised Code. The 10586
license shall expire on the last day of March of each year unless 10587
renewed. 10588

(C) No soft drink that is manufactured or bottled out of the 10589
state shall be sold or offered for sale within this state unless 10590
the soft drink and the plant in which the soft drink is 10591
manufactured or bottled are found by the director to comply with 10592
sections 913.22 to 913.28 of the Revised Code, and ~~is~~ are 10593
registered by the director, which shall be upon a like application 10594
as provided in division (B) of this section. 10595

An annual registration fee of ~~one~~ two hundred dollars shall 10596
be paid to the director by each applicant under this division. The 10597
registration shall be renewed annually, and the registration fee 10598
paid with the application for annual renewal. 10599

Registration of out-of-state soft drink manufacturers or 10600
bottlers or syrup and extract manufacturers is not required if a 10601
reciprocal agreement is in effect whereby a soft drink 10602
manufacturer or bottler or syrup and extract manufacturer located 10603

in this state is not subject to a license or registration fee by 10604
another state or a political subdivision thereof. 10605

(D) No person, other than a manufacturer or bottler holding a 10606
soft drink plant license under this section, shall sell, offer for 10607
sale, use, or have in the person's possession with intent to sell, 10608
any soda water syrup or extract or soft drink syrup, to be used in 10609
making, drawing, or dispensing soda water or other soft drinks, 10610
without first registering the person's name and address, the name 10611
and address of the manufacturer of the syrup or extract, the 10612
number and variety of such syrups or extracts intended to be sold, 10613
and the trade name or brand of those products, with the director, 10614
together with such samples of the syrups or extracts as the 10615
director requests for analysis. The person also shall pay to the 10616
department of agriculture at the time of making registration a 10617
license fee of ~~fifty~~ one hundred dollars. No license shall be 10618
granted by the director unless the director determines that the 10619
syrup or extract is free from all harmful drugs and other 10620
ingredients that, as used, may be injurious to health. The 10621
registration shall be renewed annually upon like terms. If any 10622
manufacturer, bottler, agent, or seller is licensed or has 10623
registered the manufacturer's, bottler's, agent's, or seller's 10624
name and product as required by this section and has paid the 10625
manufacturer's, bottler's, agent's, or seller's fee, the 10626
manufacturer's, bottler's, agent's, or seller's distributor, 10627
retail agent, or retail seller using the products shall not be 10628
required to pay that fee. This section does not apply to local 10629
sellers of soft drinks as to syrups and extracts made by 10630
themselves for their own use exclusively. 10631

(E) All moneys received under sections 913.22 to 913.28 of 10632
the Revised Code shall be deposited with the treasurer of state to 10633
the credit of the food safety fund created in section 915.24 of 10634
the Revised Code. 10635

(F) The director may revoke any license or registration 10636
issued under sections 913.22 to 913.28 of the Revised Code, 10637
whenever the director determines that those sections have been 10638
violated. When a license has been revoked, the licensee shall 10639
discontinue the manufacture and sale of soft drinks or other 10640
products for which the license was issued. When a registration has 10641
been revoked, the registrant shall discontinue the sale within 10642
this state of the registrant's products until those sections have 10643
been complied with and a new license or registration has been 10644
issued. The director may suspend any such license or registration 10645
temporarily, pending compliance with such conditions required by 10646
those sections as the director prescribes. 10647

Sec. 915.02. No person, firm, or corporation shall operate a 10648
cold-storage warehouse, for hire, without a license issued by the 10649
director of agriculture. ~~Such~~ A license shall be issued only on 10650
written application stating the location of ~~such~~ the warehouse. 10651
Upon receipt of the application the director shall cause an 10652
examination to be made into the sanitary conditions of ~~such~~ the 10653
warehouse. If it is found to be in a sanitary condition and 10654
properly equipped for the purpose of cold storage, the director 10655
shall cause a license to be issued authorizing the applicant to 10656
operate a warehouse. No license shall be issued until the 10657
applicant has paid to the director the sum of ~~one~~ two hundred 10658
dollars. ~~Such~~ A license shall be valid until the last day of March 10659
of each year and becomes invalid on that date unless renewed. A 10660
license shall be required for each separate warehouse building. 10661

Sec. 915.16. The license fee for an establishment is 10662
~~twenty-five~~ fifty dollars. Any operator operating in connection 10663
with a cold-storage warehouse holding a license under section 10664
915.02 of the Revised Code is not required to secure an additional 10665
license under section 915.15 of the Revised Code so long as ~~he~~ the 10666

operator continues to be licensed as a cold-storage warehouse; but 10667
he the operator shall comply with sections 915.14 to 915.24, 10668
~~inclusive~~, of the Revised Code, and all rules and regulations 10669
promulgated thereunder. The license issued shall be in such form 10670
as the department of agriculture prescribes. Licenses shall be 10671
valid until the last day of November following initial issuance or 10672
renewal and shall become invalid on that date unless renewed. The 10673
original license or a certified copy thereof shall be 10674
conspicuously displayed by the operator in the establishment. 10675

Sec. 915.24. (A) There is hereby created in the state 10676
treasury the food safety fund. All of the following moneys shall 10677
be credited to the fund: 10678

(1) Bakery registration fees and fines received under 10679
sections 911.02 to 911.20 of the Revised Code; 10680

(2) Cannery license fees and renewal fees received under 10681
sections 913.01 to 913.05 of the Revised Code; 10682

(3) Moneys received under sections 913.22 to 913.28 of the 10683
Revised Code; 10684

(4) License fees, fines, and penalties recovered for the 10685
violation of sections 915.01 to 915.12 of the Revised Code; 10686

(5) License fees collected under sections 915.14 to 915.23 of 10687
the Revised Code; 10688

(6) License fees, other fees, and fines collected by or for 10689
the director of agriculture under Chapter 3717. of the Revised 10690
Code; 10691

(7) Fees collected under section 3715.04 of the Revised Code 10692
for the issuance of certificates of health and freesale. 10693

(B) The director of agriculture shall use the moneys 10694
deposited into the food safety fund to administer and enforce the 10695
laws pursuant to which the moneys were collected. 10696

Sec. 921.02. (A) No person shall distribute a pesticide 10697
within this state unless the pesticide is registered with the 10698
director of agriculture under this chapter. Registrations shall be 10699
issued for a period of time established by rule and shall be 10700
renewed in accordance with deadlines established by rule. 10701
Registration is not required if a pesticide is shipped from one 10702
plant or warehouse to another plant or warehouse operated by the 10703
same person and used solely at that plant or warehouse as a 10704
constituent part to make a pesticide that is registered under this 10705
chapter, or if the pesticide is distributed under the provisions 10706
of an experimental use permit issued under section 921.03 of the 10707
Revised Code or an experimental use permit issued by the United 10708
States environmental protection agency. 10709

(B) The applicant for registration of a pesticide shall file 10710
a statement with the director on a form provided by the director, 10711
which shall include all of the following: 10712

(1) The name and address of the applicant and the name and 10713
address of the person whose name will appear on the label, if 10714
other than the applicant's name; 10715

(2) The brand and product name of the pesticide; 10716

(3) Any necessary information required for completion of the 10717
department of agriculture's application for registration, 10718
including the agency registration number; 10719

(4) A complete copy of the labeling accompanying the 10720
pesticide and a statement of all claims to be made for it, 10721
including the directions for use and the use classification as 10722
provided for in the federal act. 10723

(C) The director, when the director considers it necessary in 10724
the administration of this chapter, may require the submission of 10725
the complete formula of any pesticide including the active and 10726

inert ingredients. 10727

(D) The director may require a full description of the tests 10728
made and the results thereof upon which the claims are based for 10729
any pesticide. The director shall not consider any data submitted 10730
in support of an application, without permission of the applicant, 10731
in support of any other application for registration unless the 10732
other applicant first has offered to pay reasonable compensation 10733
for producing the test data to be relied upon and the data are not 10734
protected from disclosure by section 921.04 of the Revised Code. 10735
In the case of a renewal of registration, a statement shall be 10736
required only with respect to information that is different from 10737
that furnished when the pesticide was registered or last 10738
registered. 10739

(E) The director may require any other information to be 10740
submitted with an application. 10741

Any applicant may designate any portion of the required 10742
registration information as a trade secret or confidential 10743
business information. Upon receipt of any required registration 10744
information designated as a trade secret or confidential business 10745
information, the director shall consider the designated 10746
information as confidential and shall not reveal or cause to be 10747
revealed any such designated information without the consent of 10748
the applicants, except to persons directly involved in the 10749
registration process described in this section or as required by 10750
law. 10751

(F) ~~Each~~ Beginning January 1, 2007, each applicant shall pay 10752
a registration and inspection fee ~~established by rule of one~~ 10753
hundred fifty dollars for each product name and brand registered 10754
for the company whose name appears on the label. If an applicant 10755
files for a renewal of registration after the deadline established 10756
by rule, the applicant shall pay a penalty fee ~~established by rule~~ 10757

of seventy-five dollars for each product name and brand registered 10758
for the applicant. The penalty fee shall be added to the original 10759
fee and paid before the renewal registration is issued. In 10760
addition to any other remedy available under this chapter, if a 10761
pesticide that is not registered pursuant to this section is 10762
distributed within this state, the person required to register the 10763
pesticide shall do so and shall pay a penalty fee ~~established by~~ 10764
rule of seventy-five dollars for each product name and brand 10765
registered for the applicant. The penalty fee shall be added to 10766
the original fee of one hundred fifty dollars and paid before the 10767
registration is issued. 10768

(G) Provided that the state is authorized by the 10769
administrator of the United States environmental protection agency 10770
to register pesticides to meet special local needs, the director 10771
shall require the information set forth under divisions (B), (C), 10772
(D), and (E) of this section and shall register any such pesticide 10773
after determining that all of the following conditions are met: 10774

(1) Its composition is such as to warrant the proposed claims 10775
for it. 10776

(2) Its labeling and other material required to be submitted 10777
comply with the requirements of the federal act and of this 10778
chapter, and rules adopted thereunder. 10779

(3) It will perform its intended function without 10780
unreasonable adverse effects on the environment. 10781

(4) When used in accordance with widespread and commonly 10782
recognized practice, it will not generally cause unreasonable 10783
adverse effects on the environment. 10784

(5) The classification for general or restricted use is in 10785
conformity with the federal act. 10786

The director shall not make any lack of essentiality a 10787
criterion for denying the registration of any pesticide. When two 10788

pesticides meet the requirements of division (G) of this section, 10789
the director shall not register one in preference to the other. 10790

(H)(1) The director may refuse to register a pesticide if the 10791
application for registration fails to comply with this section. 10792

(2) The director may suspend or revoke a pesticide 10793
registration after a hearing in accordance with Chapter 119. of 10794
the Revised Code for a pesticide that fails to meet the claims 10795
made for it on its label. 10796

(3) The director may immediately suspend a pesticide 10797
registration, prior to a hearing, when the director believes that 10798
the pesticide poses an immediate hazard to human or animal health 10799
or a hazard to the environment. Not later than fifteen days after 10800
suspending the registration, the director shall determine whether 10801
the pesticide poses such a hazard. If the director determines that 10802
no hazard exists, the director shall lift the suspension of the 10803
registration. If the director determines that a hazard exists, the 10804
director shall revoke the registration in accordance with Chapter 10805
119. of the Revised Code. 10806

Sec. 921.16. (A) The director of agriculture shall adopt 10807
rules the director determines necessary for the effective 10808
enforcement and administration of this chapter. The rules may 10809
relate to, but are not limited to, the time, place, manner, and 10810
methods of application, materials, and amounts and concentrations 10811
of application of pesticides, may restrict or prohibit the use of 10812
pesticides in designated areas during specified periods of time, 10813
and shall encompass all reasonable factors that the director 10814
determines necessary to minimize or prevent damage to the 10815
environment. In addition, the rules shall establish the ~~fees,~~ 10816
~~deadlines,~~ and time periods for registration, registration 10817
renewal, late registration renewal, and failure to register under 10818
section 921.02 of the Revised Code; the fees for registration, 10819

~~registration renewal, late registration renewal, and failure to~~ 10820
~~register under section 921.02 of the Revised Code that shall apply~~ 10821
~~until the fees that are established under that section take effect~~ 10822
~~on January 1, 2007;~~ and the fees, deadlines, and time periods for 10823
licensure and license renewal under sections 921.06, 921.09, 10824
921.11, and 921.13 of the Revised Code. ~~The aggregate amount of~~ 10825
~~the fees that initially are established by rule after the~~ 10826
~~effective date of this amendment shall be designed to cover, but~~ 10827
~~not exceed, the costs incurred by the department of agriculture in~~ 10828
~~administering this chapter. Thereafter, the fees shall not be~~ 10829
~~increased without the approval of the general assembly.~~ 10830

(B) The director shall adopt rules that establish a schedule 10831
of civil penalties for violations of this chapter, or any rule or 10832
order adopted or issued under it, provided that the civil penalty 10833
for a first violation shall not exceed five thousand dollars and 10834
the civil penalty for each subsequent violation shall not exceed 10835
ten thousand dollars. In determining the amount of a civil penalty 10836
for a violation, the director shall consider factors relevant to 10837
the severity of the violation, including past violations and the 10838
amount of actual or potential damage to the environment or to 10839
human beings. 10840

(C) The director shall adopt rules that set forth the 10841
conditions under which the director: 10842

(1) Requires that notice or posting be given of a proposed 10843
application of a pesticide; 10844

(2) Requires inspection, condemnation, or repair of equipment 10845
used to apply a pesticide; 10846

(3) Will suspend, revoke, or refuse to issue any pesticide 10847
registration for a violation of this chapter; 10848

(4) Requires safe handling, transportation, storage, display, 10849

distribution, and disposal of pesticides and their containers; 10850

(5) Ensures the protection of the health and safety of 10851
agricultural workers storing, handling, or applying pesticides, 10852
and all residents of agricultural labor camps, as that term is 10853
defined in section 3733.41 of the Revised Code, who are living or 10854
working in the vicinity of pesticide-treated areas; 10855

(6) Requires a record to be kept of all pesticide 10856
applications made by each commercial applicator and by any trained 10857
serviceperson acting under the commercial applicator's direct 10858
supervision and of all restricted use pesticide applications made 10859
by each private applicator and by any immediate family member or 10860
subordinate employee of that private applicator who is acting 10861
under the private applicator's direct supervision as required 10862
under section 921.14 of the Revised Code; 10863

(7) Determines the pesticide-use categories of diagnostic 10864
inspections that must be conducted by a commercial applicator; 10865

(8) Requires a record to be kept of all diagnostic 10866
inspections conducted by each commercial applicator and by any 10867
trained service person. 10868

(D) The director shall prescribe standards for the licensure 10869
of applicators of pesticides consistent with those prescribed by 10870
the federal act and the regulations adopted under it or prescribe 10871
standards that are more restrictive than those prescribed by the 10872
federal act and the regulations adopted under it. The standards 10873
may relate to the use of a pesticide or to an individual's 10874
pesticide-use category. 10875

The director shall take into consideration standards of the 10876
United States environmental protection agency. 10877

(E) The director may adopt rules setting forth the conditions 10878
under which the director will: 10879

(1) Collect and examine samples of pesticides or devices;	10880
(2) Specify classes of devices that shall be subject to this chapter;	10881 10882
(3) Prescribe other necessary registration information.	10883
(F) The director may adopt rules that do either or both of the following:	10884 10885
(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;	10886 10887 10888 10889 10890
(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.	10891 10892 10893 10894 10895 10896 10897 10898 10899 10900 10901 10902 10903
(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.	10904 10905 10906 10907
(H) The director, after notice and opportunity for hearing, may declare as a pest any form of plant or animal life, other than	10908 10909

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. 10910
10911
10912

(I) The director may make reports to the United States
environmental protection agency, in the form and containing the
information the agency may require. 10913
10914
10915

(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. 10916
10917
10918
10919
10920
10921

(K) The director shall adopt rules establishing all of the
following: 10922
10923

(1) Standards, requirements, and procedures for the
examination and re-examination of commercial applicators and
private applicators; 10924
10925
10926

(2) With respect to training programs that the director may
require commercial applicators and private applicators to
complete: 10927
10928
10929

(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; 10930
10931
10932
10933

(b) Eligibility standards and requirements that must be
satisfied by third parties who wish to provide the training
programs; 10934
10935
10936

(c) Procedures that third parties must follow in order to
submit a proposed training program to the director for approval; 10937
10938

(d) Criteria that the director must consider when determining 10939

whether to authorize a commercial applicator or private applicator 10940
to participate in a training program instead of being required to 10941
pass a re-examination. 10942

(3) Training requirements for a trained serviceperson. 10943

(L) The director shall adopt all rules under this chapter in 10944
accordance with Chapter 119. of the Revised Code. 10945

Sec. 923.44. (A)(1) Except as otherwise provided in divisions 10946
(A)(2), (3), and (4) of this section, the first distributor of a 10947
commercial feed shall pay the director of agriculture a semiannual 10948
inspection fee at the rate of ~~ten~~ twenty-five cents per ton, with 10949
a minimum payment of ~~ten~~ twenty-five dollars, on all commercial 10950
feeds distributed by ~~him~~ the first distributor in this state. 10951

(2) The semiannual inspection fee required under division 10953
(A)(1) of this section shall not be paid by the first distributor 10954
of a commercial feed if the distribution is made to an exempt 10955
buyer who shall be responsible for the fee. The director shall 10956
establish an exempt list consisting of those buyers who are 10957
responsible for the fee. 10958

(3) The semiannual inspection fee shall not be paid on a 10959
commercial feed if the fee has been paid by a previous 10960
distributor. 10961

(4) The semiannual inspection fee shall not be paid on 10962
customer-formula feed if the fee has been paid on the commercial 10963
feeds ~~which~~ that are used as components in that customer-formula 10964
feed. 10965

(B) Each distributor or exempt buyer who is required to pay a 10966
fee under division (A)(1) or (2) of this section shall file a 10967
semiannual statement with the director that includes the number of 10968
net tons of commercial feed distributed by ~~him~~ the distributor or 10969

exempt buyer in this state, within thirty days after the thirtieth 10970
day of June and within thirty days after the thirty-first day of 10971
December, respectively, of each calendar year. 10972

The inspection fee at the rate stated in division (A)(1) of 10973
this section shall accompany the statement. For a tonnage report 10974
that is not filed or payment of inspection fees that is not made 10975
within fifteen days after the due date, a penalty of ten per cent 10976
of the amount due, with a minimum penalty of fifty dollars shall 10977
be assessed against the distributor or exempt buyer. The amount of 10978
fees due, plus penalty, shall constitute a debt and become the 10979
basis of a judgment against the distributor or exempt buyer. 10980

(C) No information furnished under this section shall be 10981
disclosed by an employee of the department of agriculture in such 10982
a way as to divulge the operation of any person required to make 10983
such a report. 10984

Sec. 923.45. The director of agriculture ~~shall~~ may publish ~~at~~ 10985
~~least~~ annually in such form as ~~he~~ the director considers proper: 10986
10987

(A) Information concerning the sale of commercial feed, 10988
including any production and use data ~~he~~ the director considers 10989
advisable, provided that the data does not disclose the operation 10990
of any manufacturer or distributor; 10991

(B) A comparison of the analyses of official samples of 10992
commercial feeds distributed in this state with the guaranteed 10993
analyses on the label. 10994

Sec. 923.46. All moneys collected by the director of 10995
agriculture under sections 923.41 to 923.55 of the Revised Code 10996
shall be deposited into the state treasury to the credit of the 10997
commercial feed, fertilizer, seed, and lime inspection and 10998
laboratory fund created in section 905.38 of the Revised Code. 10999

~~Money credited to the fund shall be used only for administering 11000
and enforcing this chapter and Chapter 905. of the Revised Code 11001
and rules adopted under them. 11002~~

The director shall prepare and provide a report concerning 11003
the fund in accordance with section 905.381 of the Revised Code. 11004

Sec. 927.69. To effect the purpose of sections 927.51 to 11005
927.74 of the Revised Code, the director of agriculture or the 11006
director's authorized representative may: 11007

(A) Make reasonable inspection of any premises in this state 11008
and any property therein or thereon; 11009

(B) Stop and inspect in a reasonable manner, any means of 11010
conveyance moving within this state upon probable cause to believe 11011
it contains or carries any pest, host, commodity, or other article 11012
that is subject to sections 927.51 to 927.72 of the Revised Code; 11013

(C) Conduct inspections of agricultural products that are 11014
required by other states, the United States department of 11015
agriculture, other federal agencies, or foreign countries to 11016
determine whether the products are infested. If, upon making such 11017
an inspection, the director or the director's authorized 11018
representative determines that an agricultural product is not 11019
infested, the director or the director's authorized representative 11020
may issue a certificate, as required by other states, the United 11021
States department of agriculture, other federal agencies, or 11022
foreign countries, indicating that the product is not infested. 11023

If the director charges fees for any of the certificates, 11024
agreements, or inspections specified in this section, the fees 11025
shall be as follows: 11026

(1) Phyto sanitary certificates, twenty-five dollars; 11027

(2) Compliance agreements, twenty dollars; 11028

(3) Solid wood packing certificates, twenty dollars; 11029

(4) Agricultural products and their conveyances inspections, 11030
sixty five dollars an amount equal to the hourly rate of pay in 11031
the highest step in the pay range, including fringe benefits, of a 11032
plant pest control specialist multiplied by the number of hours 11033
worked by such a specialist in conducting an inspection. 11034

The director may adopt rules under section 927.52 of the 11035
Revised Code that define the certificates, agreements, and 11036
inspections. 11037

The fees shall be deposited into the state treasury to the 11038
credit of the pesticide program fund created in Chapter 921. of 11039
the Revised Code. Money credited to the fund shall be used to pay 11040
the costs incurred by the department of agriculture in 11041
administering this chapter, including employing a minimum of two 11042
additional inspectors. 11043

Sec. 1327.511. All money collected under section 1327.50 of 11044
the Revised Code for services rendered by the department of 11045
agriculture in operating the type evaluation program shall be 11046
deposited in the state treasury to the credit of the metrology and 11047
scale certification fund, which is hereby created. Money credited 11048
to the fund shall be used to pay operating costs incurred by the 11049
department in administering the program. 11050

Sec. 1327.62. Whenever the director of agriculture, or ~~his~~ 11051
the director's designee, has cause to believe that any person has 11052
violated, or is violating, section 1327.54 ~~or~~ 1327.61, or 1327.70 11053
of the Revised Code, ~~he~~ the director, or ~~his~~ the director's 11054
designee, may conduct a hearing in accordance with Chapter 119. of 11055
the Revised Code to determine whether a violation has occurred. If 11056
the director or ~~his~~ the director's designee determines that the 11057
person has violated or is violating section 1327.54 ~~or~~ 1327.61, 11058
or 1327.70 of the Revised Code, ~~he~~ the director or the director's 11059

designee may assess a civil penalty against the person. The person 11060
is liable for a civil penalty of not more than five hundred 11061
dollars for a first violation; for a second violation the person 11062
is liable for a civil penalty of not more than two thousand five 11063
hundred dollars; for each subsequent violation that occurs within 11064
five years after the second violation, the person is liable for a 11065
civil penalty of not more than ten thousand dollars. 11066

Any person assessed a civil penalty under this section shall 11067
pay the amount prescribed to the department of agriculture. The 11068
department shall remit all moneys collected under this section to 11069
the treasurer of state for deposit in the general revenue fund. 11070

Sec. 1327.70. (A) As used in this section: 11071

(1) "Large capacity scale" includes the following: 11072

(a) Vehicle and axle-load scales used by law enforcement 11073
personnel in the enforcement of load limits on highways together 11074
with commercial railway, vehicle, and livestock scales. 11075
Descriptions of these types of scales are included in national 11076
institute of standards and technology handbook 44 or its 11077
supplements and revisions, as referred to in section 1327.49 of 11078
the Revised Code. 11079

(b) Any other scales designated in rules adopted under this 11080
section. 11081

(2) "Large meter" includes the following: 11082

(a) Commercially used rack meters, vehicle tank meters, and 11083
liquefied petroleum gas truck mounted meters. Descriptions of 11084
these types of meters are included in national institute of 11085
standards and technology handbook 44 or its supplements and 11086
revisions, as referred to in section 1327.49 of the Revised Code. 11087

(b) Any other meters designated in rules adopted under this 11088
section. 11089

(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 11121
(A), (B), (C), or (D) of section 1327.61, or section 1327.70 of 11122
the Revised Code is guilty of a misdemeanor of the second degree 11123
on a first offense; on each subsequent offense within seven years 11124
after the first offense, ~~such~~ the person is guilty of a 11125
misdemeanor of the first degree. 11126

Sec. 1502.02. (A) There is hereby created in the department 11127
of natural resources the division of recycling and litter 11128
prevention to be headed by the chief of recycling and litter 11129
prevention. 11130

(B) There is hereby created in the state treasury the 11131
recycling and litter prevention fund, consisting of moneys 11132
distributed to it from fees, including the fee levied under 11133
division (A)(3) of section 3734.901 of the Revised Code, gifts, 11134
donations, grants, reimbursements, and other sources, including 11135
investment earnings. 11136

(C) The chief of recycling and litter prevention shall do all 11137
of the following: 11138

(1) Use moneys credited to the fund exclusively for the 11139
purposes set forth in sections 1502.03, 1502.04, and 1502.05 of 11140
the Revised Code, with particular emphasis on programs relating to 11141
recycling; 11142

(2) Expend for administration of the division not more than 11143
ten per cent of any fiscal year's appropriation to the division, 11144
excluding the amount assessed to the division for direct and 11145
indirect central support charges; 11146

(3) Require recipients of grants under section 1502.05 of the 11147
Revised Code, as a condition of receiving and retaining them, to 11148
do all of the following: 11149

(a) Create a separate account for the grants and any cash	11150
donations received that qualify for the donor credit allowed by	11151
section 5733.064 of the Revised Code;	11152
(b) Make expenditures from the account exclusively for the	11153
purposes for which the grants were received;	11154
(c) Use any auditing and accounting practices the chief	11155
considers necessary regarding the account;	11156
(d) Report to the chief information regarding the amount and	11157
donor of cash donations received as described by section 5733.064	11158
of the Revised Code;	11159
(e) Use grants received to supplement and not to replace any	11160
existing funding for such purposes.	11161
(4) Report to the tax commissioner information the chief	11162
receives pursuant to division (C)(3)(d) of this section.	11163
Sec. 1515.14. Within the limits of funds appropriated to the	11164
department of natural resources <u>and the soil and water</u>	11165
<u>conservation district assistance fund created in this section,</u>	11166
there shall be paid in each calendar year to each local soil and	11167
water conservation district an amount not to exceed one dollar for	11168
each one dollar received in accordance with section 1515.10 of the	11169
Revised Code, received from tax levies in excess of the ten-mill	11170
levy limitation approved for the benefit of local soil and water	11171
conservation districts, or received from an appropriation by a	11172
municipal corporation or a township to a maximum of eight thousand	11173
dollars, provided that the Ohio soil and water conservation	11174
commission may approve payment to a district in an amount in	11175
excess of eight thousand dollars in any calendar year upon receipt	11176
of a request and justification from the district. The county	11177
auditor shall credit such payments to the special fund established	11178
pursuant to section 1515.10 of the Revised Code for the local soil	11179

and water conservation district. The department may make advances 11180
at least quarterly to each district on the basis of the estimated 11181
contribution of the state to each district. Moneys received by 11182
each district shall be expended for the purposes of the district. 11183

For the purpose of providing money to soil and water 11184
conservation districts under this section, there is hereby created 11185
in the state treasury the soil and water conservation district 11186
assistance fund consisting of money credited to it under section 11187
3714.073 of the Revised Code. 11188

Sec. 1517.02. There is hereby created in the department of 11189
natural resources the division of natural areas and preserves, 11190
which shall be administered by the chief of natural areas and 11191
preserves. The chief shall take an oath of office and shall file 11192
in the office of the secretary of state a bond signed by the chief 11193
and by a surety approved by the governor for a sum fixed pursuant 11194
to section 121.11 of the Revised Code. 11195

The chief shall administer a system of nature preserves and 11196
wild, scenic, and recreational river areas. The chief shall 11197
establish a system of nature preserves through acquisition and 11198
dedication of natural areas of state or national significance, 11199
which shall include, but not be limited to, areas ~~which~~ that 11200
represent characteristic examples of Ohio's natural landscape 11201
types and its natural vegetation and geological history. The chief 11202
shall encourage landowners to dedicate areas of unusual 11203
significance as nature preserves, and shall establish and maintain 11204
a registry of natural areas of unusual significance. 11205

The chief may supervise, operate, protect, and maintain wild, 11206
scenic, and recreational river areas, as designated by the 11207
director of natural resources. The chief may cooperate with 11208
federal agencies administering any federal program concerning 11209
wild, scenic, or recreational river areas. 11210

~~The chief may, with the approval of the director, enter into an agreement with the United States department of commerce under the "Coastal Zone Management Act of 1972," 86 Stat. 1280, 16 U.S.C.A. 1451, as amended, for the purpose of receiving grants to continue the management, operation, research, and programming at old woman creek national estuarine research reserve.~~

The chief shall do the following: 11217

(A) Formulate policies and plans for the acquisition, use, management, and protection of nature preserves; 11218
11219

(B) Formulate policies for the selection of areas suitable for registration; 11220
11221

(C) Formulate policies for the dedication of areas as nature preserves; 11222
11223

(D) Prepare and maintain surveys and inventories of natural areas and habitats of rare and endangered species of plants and animals; 11224
11225
11226

(E) Adopt rules for the use, visitation, and protection of nature preserves, "natural areas owned or managed through easement, license, or lease by the department and administered by the division," and lands owned "or managed through easement, license, or lease" by the department and administered by the division ~~which~~ that are within or adjacent to any wild, scenic, or recreational river area, in accordance with Chapter 119. of the Revised Code; 11227
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(F) Provide facilities and improvements within the state system of nature preserves that are necessary for their visitation, use, restoration, and protection and do not impair their natural character; 11235
11236
11237
11238

(G) Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for 11239
11240

their visitation and use; 11241

(H) Conduct and grant permits to qualified persons for the 11242
conduct of scientific research and investigations within nature 11243
preserves; 11244

(I) Establish an appropriate system for marking nature 11245
preserves; 11246

(J) Publish and submit to the governor and the general 11247
assembly a biennial report of the status and condition of each 11248
nature preserve, activities conducted within each preserve, and 11249
plans and recommendations for natural area preservation. 11250

Sec. 1521.062. (A) All dams, dikes, and levees constructed in 11251
this state and not exempted by this section or by the chief of the 11252
division of water under section 1521.06 of the Revised Code shall 11253
be inspected periodically by the chief ~~to~~, except for classes of 11254
dams that, in accordance with rules adopted under this section, 11255
are required to be inspected by registered professional engineers 11256
who have been approved for that purpose by the chief. The 11257
inspection shall ensure that continued operation and use of the 11258
dam, dike, or levee does not constitute a hazard to life, health, 11259
or property. Periodic inspections shall not be required of the 11260
following structures: 11261

(1) A dam that is less than ten feet in height and has a 11262
storage capacity of not more than fifty acre-feet at the elevation 11263
of the top of the dam, as determined by the chief. For the 11264
purposes of this section, the height of a dam shall be measured 11265
from the natural stream bed or lowest ground elevation at the 11266
downstream or outside limit of the dam to the elevation of the top 11267
of the dam. 11268

(2) A dam, regardless of height, that has a storage capacity 11269
of not more than fifteen acre-feet at the elevation of the top of 11270

the dam, as determined by the chief; 11271

(3) A dam, regardless of storage capacity, that is six feet 11272
or less in height, as determined by the chief; 11273

(4) A dam, dike, or levee belonging to a class exempted by 11274
the chief; 11275

(5) A dam, dike, or levee that has been exempted in 11276
accordance with rules adopted under section 1521.064 of the 11277
Revised Code. 11278

(B) In accordance with rules adopted under this section, the 11279
owner of a dam that is in a class of dams that is designated in 11280
the rules for inspection by registered professional engineers 11281
shall obtain the services of a registered professional engineer 11282
who has been approved by the chief to conduct the periodic 11283
inspection of dams pursuant to schedules and other standards and 11284
procedures established in the rules. The registered professional 11285
engineer shall prepare a report of the inspection in accordance 11286
with the rules and provide the inspection report to the dam owner 11287
who shall submit it to the chief. A dam that is designated under 11288
the rules for inspection by a registered professional engineer but 11289
that is not inspected within a five-year period may be inspected 11290
by the chief at the owner's expense. 11291

(C) Intervals between periodic inspections shall be 11292
determined by the chief, but shall not exceed five years. ~~The~~ 11293
~~chief may use inspection reports prepared for the owner of the~~ 11294
~~dam, dike, or levee by a registered professional engineer.~~ 11295

~~(C) The owner~~ (D) In the case of a dam, dike, or levee that 11296
the chief inspects, the chief shall be furnished furnish a report 11297
of ~~each~~ the inspection ~~and~~ to the owner of the dam, dike, or 11298
levee. With regard to a dam, dike, or levee that has been 11299
inspected, either by the chief or by a registered professional 11300
engineer, and that is the subject of an inspection report prepared 11301

or received by the chief, the chief shall be informed of inform 11302
the owner of any required repairs, maintenance, investigations, 11303
and other remedial and operational measures ~~by the chief~~. The 11304
chief shall order the owner to perform such repairs, maintenance, 11305
investigations, or other remedial or operational measures as ~~he~~ 11306
the chief considers necessary to safeguard life, health, or 11307
property. The order shall permit the owner a reasonable time in 11308
which to perform the needed repairs, maintenance, investigations, 11309
or other remedial measures, and the cost thereof shall be borne by 11310
the owner. All orders of the chief are subject to appeal as 11311
provided in Chapter 119. of the Revised Code. The attorney 11312
general, upon written request of the chief, may bring an action 11313
for an injunction against any person who violates this section or 11314
to enforce an order of the chief made pursuant to this section. 11315

~~(D)~~(E) The owner of a dam, dike, or levee shall monitor, 11316
maintain, and operate the structure and its appurtenances safely 11317
in accordance with state rules, terms and conditions of permits, 11318
orders, and other requirements issued pursuant to this section or 11319
section 1521.06 of the Revised Code. The owner shall fully and 11320
promptly notify the division of water and other responsible 11321
authorities of any condition ~~which~~ that threatens the safety of 11322
the structure and shall take all necessary actions to safeguard 11323
life, health, and property. 11324

~~(E)~~(F) Before commencing the repair, improvement, alteration, 11325
or removal of a dam, dike, or levee, the owner shall file an 11326
application including plans, specifications, and other required 11327
information with the division and shall secure written approval of 11328
the application by the chief. Emergency actions by the owner 11329
required to safeguard life, health, or property are exempt from 11330
this requirement. The chief may, by rule, define maintenance, 11331
repairs, or other remedial measures of a routine nature ~~which~~ that 11332
are exempt from this requirement. 11333

~~(F)~~(G) The chief may remove or correct, at the expense of the owner, any unsafe structures found to be constructed or maintained in violation of this section or section 1521.06 of the Revised Code. In the case of an owner other than a governmental agency, the cost of removal or correction of any unsafe structure, together with a description of the property on which the unsafe structure is located, shall be certified by the chief to the county auditor and placed by the county auditor upon the tax duplicate. This cost is a lien upon the lands from the date of entry and shall be collected as other taxes and returned to the division. In the case of an owner that is a governmental agency, the cost of removal or correction of any unsafe structure shall be recoverable from the owner by appropriate action in a court of competent jurisdiction.

~~(G)~~(H) If the condition of any dam, dike, or levee is found, in the judgment of the chief, to be so dangerous to the safety of life, health, or property as not to permit time for the issuance and enforcement of an order relative to repair, maintenance, or operation, the chief shall employ any of the following remedial means necessary to protect life, health, and property:

(1) Lower the water level of the lake or reservoir by releasing water;

(2) Completely drain the lake or reservoir;

(3) Take such other measures or actions as ~~he~~ the chief considers necessary to safeguard life, health, and property.

The chief shall continue in full charge and control of the dam, dike, or levee until the structure is rendered safe. The cost of the remedy shall be recoverable from the owner of the structure by appropriate action in a court of competent jurisdiction.

~~(H)~~(I) The chief may accept and expend gifts, bequests, and grants from the United States government or from any other public

or private source and may contract with the United States 11365
government or any other agency or entity for the purpose of 11366
carrying out the dam safety functions set forth in this section 11367
and section 1521.06 of the Revised Code. 11368

(J) In accordance with Chapter 119. of the Revised Code, the 11369
chief shall adopt, and may amend or rescind, rules that do all of 11370
the following: 11371

(1) Designate classes of dams for which dam owners must 11372
obtain the services of a registered professional engineer to 11373
periodically inspect the dams and to prepare reports of the 11374
inspections for submittal to the chief; 11375

(2) Establish standards in accordance with which the chief 11376
must approve or disapprove registered professional engineers to 11377
inspect dams together with procedures governing the approval 11378
process; 11379

(3) Establish schedules, standards, and procedures governing 11380
periodic inspections and standards and procedures governing the 11381
preparation and submittal of inspection reports; 11382

(4) Establish provisions regarding the enforcement of this 11383
section and rules adopted under it. 11384

Sec. 1531.27. The chief of the division of wildlife shall pay 11385
to the treasurers of the several counties wherein lands owned by 11386
the state and administered by the division are ~~situate~~ located an 11387
annual amount determined in the following manner: in each such 11388
county one per cent of the total value of such lands exclusive of 11389
improvements, as shown on the auditor's records of taxable value 11390
of real property existing at the time when the state acquired the 11391
tract or tracts comprising ~~such~~ the lands. 11392

~~Such~~ The payments shall be made from funds accruing to the 11393
division ~~of wildlife~~ from the sale of hunting or fishing licenses 11394

and ~~federal wildlife restoration funds, and the~~ from fines, 11395
penalties, and forfeitures deposited into the state treasury to 11396
the credit of the wildlife fund created in section 1531.17 of the 11397
Revised Code. The allocation of amounts to be paid from ~~such~~ those 11398
sources shall be determined by the director of natural resources. 11399

~~Such~~ The payments to the treasurers of the several counties 11400
shall be credited to the fund for school purposes within the 11401
school districts wherein ~~such~~ the lands are ~~situate~~ located. 11402

Sec. 1533.10. Except as provided in this section or division 11403
(A)(2) of section 1533.12 of the Revised Code, no person shall 11404
hunt any wild bird or wild quadruped without a hunting license. 11405
Each day that any person hunts within the state without procuring 11406
such a license constitutes a separate offense. Except as otherwise 11407
provided in this section, every applicant for a hunting license 11408
who is a resident of the state and ~~sixteen~~ eighteen years of age 11409
or more shall procure a resident hunting license, the fee for 11410
which shall be eighteen dollars, unless the rules adopted under 11411
division (B) of section 1533.12 of the Revised Code provide for 11412
issuance of a resident hunting license to the applicant free of 11413
charge. Except as provided in rules adopted under division (B)(2) 11414
of that section, each applicant who is a resident of this state 11415
and who at the time of application is sixty-six years of age or 11416
older shall procure a special senior hunting license, the fee for 11417
which shall be one-half of the regular hunting license fee. Every 11418
applicant who is under the age of ~~sixteen~~ eighteen years shall 11419
procure a special youth hunting license, the fee for which shall 11420
be one-half of the regular hunting license fee. The owner of lands 11421
in the state and the owner's children of any age and grandchildren 11422
under eighteen years of age may hunt on the lands without a 11423
hunting license. The tenant and children of the tenant, residing 11424
on lands in the state, may hunt on them without a hunting license. 11425
~~Every~~ Except as otherwise provided in division (A)(1) of section 11426

1533.12 of the Revised Code, every applicant for a hunting license 11427
who is a nonresident of the state and who is ~~sixteen~~ eighteen 11428
years of age or older shall procure a nonresident hunting license, 11429
the fee for which shall be one hundred twenty-four dollars, unless 11430
the applicant is a resident of a state that is a party to an 11431
agreement under section 1533.91 of the Revised Code, in which case 11432
the fee shall be eighteen dollars. 11433

The chief of the division of wildlife may issue a small game 11434
hunting license expiring three days from the effective date of the 11435
license to a nonresident of the state, the fee for which shall be 11436
thirty-nine dollars. No person shall take or possess deer, wild 11437
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 11438
animal while possessing only a small game hunting license. A small 11439
game hunting license does not authorize the taking or possessing 11440
of ducks, geese, or brant without having obtained, in addition to 11441
the small game hunting license, a wetlands habitat stamp as 11442
provided in section 1533.112 of the Revised Code. A small game 11443
hunting license does not authorize the taking or possessing of 11444
deer, wild turkeys, or fur-bearing animals. A nonresident of the 11445
state who wishes to take or possess deer, wild turkeys, or 11446
fur-bearing animals in this state shall procure, respectively, a 11447
special deer or wild turkey permit as provided in section 1533.11 11448
of the Revised Code or a fur taker permit as provided in section 11449
1533.111 of the Revised Code in addition to a nonresident hunting 11450
license or a special youth hunting license, as applicable, as 11451
provided in this section. 11452

No person shall procure or attempt to procure a hunting 11453
license by fraud, deceit, misrepresentation, or any false 11454
statement. 11455

This section does not authorize the taking and possessing of 11456
deer or wild turkeys without first having obtained, in addition to 11457
the hunting license required by this section, a special deer or 11458

wild turkey permit as provided in section 1533.11 of the Revised Code or the taking and possessing of ducks, geese, or brant without first having obtained, in addition to the hunting license required by this section, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code.

This section does not authorize the hunting or trapping of fur-bearing animals without first having obtained, in addition to a hunting license required by this section, a fur taker permit as provided in section 1533.111 of the Revised Code.

No hunting license shall be issued unless it is accompanied by a written explanation of the law in section 1533.17 of the Revised Code and the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed.

No hunting license shall be issued unless the applicant presents to the agent authorized to issue the license a previously held hunting license or evidence of having held such a license in content and manner approved by the chief, a certificate of completion issued upon completion of a hunter education and conservation course approved by the chief, or evidence of equivalent training in content and manner approved by the chief.

No person shall issue a hunting license to any person who fails to present the evidence required by this section. No person shall purchase or obtain a hunting license without presenting to the issuing agent the evidence required by this section. Issuance of a hunting license in violation of the requirements of this 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 11490
first-time hunting license buyers and for volunteer instructors. 11491
The course shall consist of subjects including, but not limited 11492
to, hunter safety and health, use of hunting implements, hunting 11493
tradition and ethics, the hunter and conservation, the law in 11494
section 1533.17 of the Revised Code along with the penalty for its 11495
violation, including a description of terms of imprisonment and 11496
fines that may be imposed, and other law relating to hunting. 11497
Authorized personnel of the division or volunteer instructors 11498
approved by the chief shall conduct such courses with such 11499
frequency and at such locations throughout the state as to 11500
reasonably meet the needs of license applicants. The chief shall 11501
issue a certificate of completion to each person who successfully 11502
completes the course and passes an examination prescribed by the 11503
chief. 11504

Sec. 1533.11. (A) Except as provided in this section, no 11505
person shall hunt deer on lands of another without first obtaining 11506
an annual special deer permit. Except as provided in this section, 11507
no person shall hunt wild turkeys on lands of another without 11508
first obtaining an annual special wild turkey permit. Each 11509
applicant for a special deer or wild turkey permit shall pay an 11510
annual fee of twenty-three dollars for each permit unless the 11511
rules adopted under division (B) of section 1533.12 of the Revised 11512
Code provide for issuance of a deer or wild turkey permit to the 11513
applicant free of charge. Except as provided in rules adopted 11514
under division (B)(2) of that section, each applicant who is a 11515
resident of this state and who at the time of application is 11516
sixty-six years of age or older shall procure a special senior 11517
deer or wild turkey permit, the fee for which shall be one-half of 11518
the regular special deer or wild turkey permit fee. Each applicant 11519
who is under the age of ~~sixteen~~ eighteen years shall procure a 11520
special youth deer or wild turkey permit, the fee for which shall 11521

be one-half of the regular special deer or wild turkey permit fee. 11522
Except as provided in division (A)(2) of section 1533.12 of the 11523
Revised Code, a deer or wild turkey permit shall run concurrently 11524
with the hunting license. The money received shall be paid into 11525
the state treasury to the credit of the wildlife fund, created in 11526
section 1531.17 of the Revised Code, exclusively for the use of 11527
the division of wildlife in the acquisition and development of 11528
land for deer or wild turkey management, for investigating deer or 11529
wild turkey problems, and for the stocking, management, and 11530
protection of deer or wild turkey. Every person, while hunting 11531
deer or wild turkey on lands of another, shall carry the person's 11532
special deer or wild turkey permit and exhibit it to any 11533
enforcement officer so requesting. Failure to so carry and exhibit 11534
such a permit constitutes an offense under this section. The chief 11535
of the division of wildlife shall adopt any additional rules the 11536
chief considers necessary to carry out this section and section 11537
1533.10 of the Revised Code. 11538

The owner and the children of the owner of lands in this 11539
state may hunt deer or wild turkey thereon without a special deer 11540
or wild turkey permit. The tenant and children of the tenant may 11541
hunt deer or wild turkey on lands where they reside without a 11542
special deer or wild turkey permit. 11543

(B) A special deer or wild turkey permit is not transferable. 11544
No person shall carry a special deer or wild turkey permit issued 11545
in the name of another person. 11546

(C) The wildlife refunds fund is hereby created in the state 11547
treasury. The fund shall consist of money received from 11548
application fees for special deer permits that are not issued. 11549
Money in the fund shall be used to make refunds of such 11550
application fees. 11551

Sec. 1533.111. Except as provided in this section or division 11552

(A)(2) of section 1533.12 of the Revised Code, no person shall 11553
hunt or trap fur-bearing animals on land of another without first 11554
obtaining an annual fur taker permit. Each applicant for a fur 11555
taker permit shall pay an annual fee of fourteen dollars for the 11556
permit, except as otherwise provided in this section or unless the 11557
rules adopted under division (B) of section 1533.12 of the Revised 11558
Code provide for issuance of a fur taker permit to the applicant 11559
free of charge. Except as provided in rules adopted under division 11560
(B)(2) of that section, each applicant who is a resident of this 11561
state and who at the time of application is sixty-six years of age 11562
or older shall procure a special senior fur taker permit, the fee 11563
for which shall be one-half of the regular fur taker permit fee. 11564
Each applicant ~~who is a resident of the state and~~ under the age of 11565
~~sixteen~~ eighteen years shall procure a special youth fur taker 11566
permit, the fee for which shall be one-half of the regular fur 11567
taker permit fee. The fur taker permit shall run concurrently with 11568
the hunting license. The money received shall be paid into the 11569
state treasury to the credit of the fund established in section 11570
1533.15 of the Revised Code. 11571

No fur taker permit shall be issued unless it is accompanied 11572
by a written explanation of the law in section 1533.17 of the 11573
Revised Code and the penalty for its violation, including a 11574
description of terms of imprisonment and fines that may be 11575
imposed. 11576

No fur taker permit shall be issued unless the applicant 11577
presents to the agent authorized to issue a fur taker permit a 11578
previously held hunting license or trapping or fur taker permit or 11579
evidence of having held such a license or permit in content and 11580
manner approved by the chief of the division of wildlife, a 11581
certificate of completion issued upon completion of a trapper 11582
education course approved by the chief, or evidence of equivalent 11583
training in content and manner approved by the chief. 11584

No person shall issue a fur taker permit to any person who 11585
fails to present the evidence required by this section. No person 11586
shall purchase or obtain a fur taker permit without presenting to 11587
the issuing agent the evidence required by this section. Issuance 11588
of a fur taker permit in violation of the requirements of this 11589
section is an offense by both the purchaser of the illegally 11590
obtained permit and the clerk or agent who issued the permit. Any 11591
fur taker permit issued in violation of this section is void. 11592

The chief, with approval of the wildlife council, shall adopt 11593
rules prescribing a trapper education course for first-time fur 11594
taker permit buyers and for volunteer instructors. The course 11595
shall consist of subjects that include, but are not limited to, 11596
trapping techniques, animal habits and identification, trapping 11597
tradition and ethics, the trapper and conservation, the law in 11598
section 1533.17 of the Revised Code along with the penalty for its 11599
violation, including a description of terms of imprisonment and 11600
fines that may be imposed, and other law relating to trapping. 11601
Authorized personnel of the division of wildlife or volunteer 11602
instructors approved by the chief shall conduct the courses with 11603
such frequency and at such locations throughout the state as to 11604
reasonably meet the needs of permit applicants. The chief shall 11605
issue a certificate of completion to each person who successfully 11606
completes the course and passes an examination prescribed by the 11607
chief. 11608

Every person, while hunting or trapping fur-bearing animals 11609
on lands of another, shall carry the person's fur taker permit 11610
~~affixed to the person's hunting license~~ with the person's 11611
signature written ~~across the face of~~ on the permit. Failure to 11612
carry such a signed permit constitutes an offense under this 11613
section. The chief shall adopt any additional rules the chief 11614
considers necessary to carry out this section. 11615

The owner and the children of the owner of lands in this 11616

state may hunt or trap fur-bearing animals thereon without a fur taker permit. The tenant and children of the tenant may hunt or trap fur-bearing animals on lands where they reside without a fur taker permit.

A fur taker permit is not transferable. No person shall carry a fur taker permit issued in the name of another person.

A fur taker permit entitles a nonresident to take from this state fur-bearing animals taken and possessed by the nonresident as provided by law or division rule.

Sec. 1533.112. Except as provided in this section or unless otherwise provided by division rule, no person shall hunt ducks, geese, or brant on the lands of another without first obtaining an annual wetlands habitat stamp. The annual fee for the wetlands habitat stamp shall be fourteen dollars for each stamp unless the rules adopted under division (B) of section 1533.12 provide for issuance of a wetlands habitat stamp to the applicant free of charge.

Moneys received from the stamp fee shall be paid into the state treasury to the credit of the wetlands habitat fund, which is hereby established. Moneys shall be paid from the fund on the order of the director of natural resources for the following purposes:

(A) Sixty per cent for projects that the division approves for the acquisition, development, management, or preservation of waterfowl areas within the state;

(B) Forty per cent for contribution by the division to an appropriate nonprofit organization for the acquisition, development, management, or preservation of lands and waters within the United States or Canada that provide or will provide habitat for waterfowl with migration routes that cross this state.

No moneys derived from the issuance of wetlands habitat stamps shall be spent for purposes other than those specified by this section. All investment earnings of the fund shall be credited to the fund.

Wetlands habitat stamps shall be furnished by and in a form prescribed by the chief of the division of wildlife and issued by clerks and other agents authorized to issue licenses and permits under section 1533.13 of the Revised Code. The record of stamps kept by the clerks and other agents shall be uniform throughout the state, in such form or manner as the director prescribes, and open at all reasonable hours to the inspection of any person. Unless otherwise provided by rule, each stamp shall remain in force until midnight of the thirty-first day of August next ensuing. Wetlands habitat stamps may be issued in any manner to any person on any date, whether or not that date is within the period in which they are effective.

Every person to whom this section applies, while hunting ducks, geese, or brant, shall carry an unexpired wetlands habitat stamp that is validated by the person's signature written on the stamp in ink and shall exhibit the stamp to any enforcement officer so requesting. No person shall fail to carry and exhibit the person's stamp.

A wetlands habitat stamp is not transferable.

The chief shall establish a procedure to obtain subject matter to be printed on the wetlands habitat stamp and shall use, dispose of, or distribute the subject matter as the chief considers necessary. The chief also shall adopt rules necessary to administer this section.

This section does not apply to persons under sixteen years of age nor to persons exempted from procuring a hunting license under section 1533.10 or division (A)(2) of section 1533.12 of the

Revised Code. 11678

Sec. 1533.12. (A)(1) Except as otherwise provided in division 11679
(A)(2) of this section, every person on active duty in the armed 11680
forces of the United States who is stationed in this state and who 11681
wishes to engage in an activity for which a license, permit, or 11682
stamp is required under this chapter first shall obtain the 11683
requisite license, permit, or stamp. Such a person is eligible to 11684
obtain a resident hunting or fishing license regardless of whether 11685
the person qualifies as a resident of this state. To obtain a 11686
resident hunting or fishing license, the person shall present a 11687
card or other evidence identifying the person as being on active 11688
duty in the armed forces of the United States and as being 11689
stationed in this state. 11690

(2) Every person on active duty in the armed forces of the 11691
United States, while on leave or furlough, may take or catch fish 11692
of the kind lawfully permitted to be taken or caught within the 11693
state, may hunt any wild bird or wild quadruped lawfully permitted 11694
to be hunted within the state, and may trap fur-bearing animals 11695
lawfully permitted to be trapped within the state, without 11696
procuring a fishing license, a hunting license, a fur taker 11697
permit, or a wetlands habitat stamp required by this chapter, 11698
provided that the person shall carry on the person when fishing, 11699
hunting, or trapping, a card or other evidence identifying the 11700
person as being on active duty in the armed forces of the United 11701
States, and provided that the person is not otherwise violating 11702
any of the hunting, fishing, and trapping laws of this state. 11703

In order to hunt deer or wild turkey, any such person shall 11704
obtain a special deer or wild turkey permit, as applicable, under 11705
section 1533.11 of the Revised Code. However, the person need not 11706
obtain a hunting license in order to obtain such a permit. 11707

(B) The chief of the division of wildlife shall provide by 11708

rule adopted under section 1531.10 of the Revised Code all of the 11709
following: 11710

(1) Every resident of this state with a disability that has 11711
been determined by the veterans administration to be permanently 11712
and totally disabling, who receives a pension or compensation from 11713
the veterans administration, and who received an honorable 11714
discharge from the armed forces of the United States, and every 11715
veteran to whom the registrar of motor vehicles has issued a set 11716
of license plates under section 4503.41 of the Revised Code, shall 11717
be issued an annual fishing license, hunting license, fur taker 11718
permit, deer or wild turkey permit, or wetlands habitat stamp, or 11719
any combination of those licenses, permits, and stamp, free of 11720
charge when application is made to the chief in the manner 11721
prescribed by and on forms provided by the chief. 11722

(2) Every resident of the state who was born on or before 11723
December 31, 1937, shall be issued an annual fishing license, 11724
hunting license, fur taker permit, deer or wild turkey permit, or 11725
wetlands habitat stamp, or any combination of those licenses, 11726
permits, and stamp, free of charge when application is made to the 11727
chief in the manner prescribed by and on forms provided by the 11728
chief. 11729

(3) Every resident of state or county institutions, 11730
charitable institutions, and military homes in this state shall be 11731
issued an annual fishing license free of charge when application 11732
is made to the chief in the manner prescribed by and on forms 11733
provided by the chief. 11734

(4) Any mobility impaired or blind person, as defined in 11735
section 955.011 of the Revised Code, who is a resident of this 11736
state and who is unable to engage in fishing without the 11737
assistance of another person shall be issued an annual fishing 11738
license free of charge when application is made to the chief in 11739

the manner prescribed by and on forms provided by the chief. The
person who is assisting the mobility impaired or blind person may
assist in taking or catching fish of the kind permitted to be
taken or caught without procuring the license required under
section 1533.32 of the Revised Code, provided that only one line
is used by both persons.

(5) As used in division (B)(5) of this section, "prisoner of
war" means any regularly appointed, enrolled, enlisted, or
inducted member of the military forces of the United States who
was captured, separated, and incarcerated by an enemy of the
United States.

Any person who has been a prisoner of war, was honorably
discharged from the military forces, and is a resident of this
state shall be issued an annual fishing license, hunting license,
fur taker permit, or wetlands habitat stamp, or any combination of
those licenses, permits, and stamp, free of charge when
application is made to the chief in the manner prescribed by and
on forms provided by the chief.

(C) The chief shall adopt rules pursuant to section 1531.08
of the Revised Code designating not more than two days, which need
not be consecutive, in each year as "free sport fishing days" on
which any resident may exercise the privileges accorded the holder
of a fishing license issued under section 1533.32 of the Revised
Code without procuring such a license, provided that the person is
not otherwise violating any of the fishing laws of this state.

Sec. 1533.32. Except as provided in this section or division
(A)(2) or (C) of section 1533.12 of the Revised Code, no person,
including nonresidents, shall take or catch any fish by angling in
any of the waters in the state or engage in fishing in those
waters without a license. No person shall take or catch frogs or
turtles without a valid fishing license, except as provided in

this section. Persons fishing in privately owned ponds, lakes, or 11771
reservoirs to or from which fish are not accustomed to migrate are 11772
exempt from the license requirements set forth in this section. 11773
Persons fishing in privately owned ponds, lakes, or reservoirs 11774
that are open to public fishing through an agreement or lease with 11775
the division of wildlife shall comply with the license 11776
requirements set forth in this section. 11777

The fee for an annual license shall be thirty-nine dollars 11778
for a resident of a state that is not a party to an agreement 11779
under section 1533.91 of the Revised Code. The fee for an annual 11780
license shall be eighteen dollars for a resident of a state that 11781
is a party to such an agreement. The fee for an annual license for 11782
residents of this state shall be eighteen dollars unless the rules 11783
adopted under division (B) of section 1533.12 of the Revised Code 11784
provide for issuance of a resident fishing license to the 11785
applicant free of charge. Except as provided in rules adopted 11786
under division (B)(2) of that section, each applicant who is a 11787
resident of this state and who at the time of application is 11788
sixty-six years of age or older shall procure a special senior 11789
fishing license, the fee for which shall be one-half of the annual 11790
resident fishing license fee. 11791

Any person under the age of sixteen years may take or catch 11792
frogs and turtles and take or catch fish by angling without a 11793
license. 11794

The chief of the division of wildlife may issue a tourist's 11795
license expiring three days from the effective date of the license 11796
to a resident of a state that is not a party to an agreement under 11797
section 1533.91 of the Revised Code. The fee for a tourist's 11798
license shall be eighteen dollars. 11799

The chief shall adopt rules under section 1531.10 of the 11800
Revised Code providing for the issuance of a one-day fishing 11801
license to a resident of this state or of any other state. The fee 11802

for such a license shall be fifty-five per cent of the amount 11803
established under this section for a tourist's license, rounded up 11804
to the nearest whole dollar. A one-day fishing license shall allow 11805
the holder to take or catch fish by angling in the waters in the 11806
state, engage in fishing in those waters, or take or catch frogs 11807
or turtles in those waters for one day without obtaining an annual 11808
license or a tourist's license under this section. At the request 11809
of a holder of a one-day fishing license who wishes to obtain an 11810
annual license, a clerk or agent authorized to issue licenses 11811
under section 1533.13 of the Revised Code, not later than the last 11812
day on which the one-day license would be valid if it were an 11813
annual license, shall credit the amount of the fee paid for the 11814
one-day license toward the fee charged for the annual license if 11815
so authorized by the chief. The clerk or agent shall issue the 11816
annual license upon presentation of the one-day license and 11817
payment of a fee in an amount equal to the difference between the 11818
fee for the annual license and the fee for the one-day license. 11819

7 11820

Unless otherwise provided by division rule, each annual 11821
license shall begin on the first day of March of the current year 11822
and expire on the last day of February of the following year. 11823

No person shall alter a fishing license or possess a fishing 11824
license that has been altered. 11825

No person shall procure or attempt to procure a fishing 11826
license by fraud, deceit, misrepresentation, or any false 11827
statement. 11828

Owners of land over, through, upon, or along which any water 11829
flows or stands, except where the land is in or borders on state 11830
parks or state-owned lakes, together with the members of the 11831
immediate families of such owners, may take frogs and turtles and 11832
may take or catch fish of the kind permitted to be taken or caught 11833

therefrom without procuring a license provided for in this 11834
section. This exemption extends to tenants actually residing upon 11835
such lands and to the members of the immediate families of the 11836
tenants. Residents of state or county institutions, charitable 11837
institutions, and military homes in this state may take frogs and 11838
turtles without procuring the required license, provided that a 11839
member of the institution or home has an identification card, 11840
which shall be carried on that person when fishing. 11841

Every fisher required to be licensed, while fishing or taking 11842
or attempting to take frogs or turtles, shall carry the license 11843
and exhibit it to any person. Failure to so carry and exhibit the 11844
license constitutes an offense under this section. 11845

Sec. 1541.03. All lands and waters dedicated and set apart 11846
for state park purposes shall be under the control and management 11847
of the division of parks and recreation, which shall protect, 11848
maintain, and keep them in repair. The division shall have the 11849
following powers over all such lands and waters: 11850

(A) To make alterations and improvements; 11851

(B) To construct and maintain dikes, wharves, landings, 11852
docks, dams, and other works; 11853

(C) To construct and maintain roads and drives in, around, 11854
upon, and to the lands and waters to make them conveniently 11855
accessible and useful to the public; 11856

(D) ~~To~~ Except as otherwise provided in this section, to 11857
adopt, amend, and rescind, in accordance with Chapter 119. of the 11858
Revised Code, rules necessary for the proper management of state 11859
parks, bodies of water, and the lands adjacent to them under its 11860
jurisdiction and control, including the following: 11861

(1) Governing opening and closing times and dates of the 11862
parks; 11863

(2) Establishing fees and charges for admission to state	11864
parks and for use of facilities in them <u>state parks</u> ;	11865
(3) Governing camps, camping, and fees for camps and camping;	11866
(4) Governing the application for and rental of, rental fees	11867
for, and the use of cabins;	11868
(5) Relating to public use of state park lands, and governing	11869
the operation of motor vehicles, including speeds, and parking on	11870
those lands;	11871
(6) Governing all advertising within state parks and the	11872
requirements for the operation of places selling tangible personal	11873
property and control of food service sales on lands and waters	11874
under the control of the division, which rules shall establish	11875
uniform requirements;	11876
(7) Providing uniform standards relating to the size, type,	11877
location, construction, and maintenance of structures and devices	11878
used for fishing or moorage of watercraft, rowboats, sailboats,	11879
and powercraft, as those terms are defined in section 1547.01 of	11880
the Revised Code, over waters under the control of the division	11881
and establishing reasonable fees for the construction of and	11882
annual use permits for those structures and devices;	11883
(8) Governing state beaches, swimming, inflatable devices,	11884
and fees for them;	11885
(9) Governing the removal and disposition of any watercraft,	11886
rowboat, sailboat, or powercraft, as those terms are defined in	11887
section 1547.01 of the Revised Code, left unattended for more than	11888
seven days on any lands or waters under the control of the	11889
division;	11890
(10) Governing the establishment and collection of check	11891
collection charges for checks that are returned to the division or	11892
dishonored for any reason.	11893

The division shall adopt rules under this section 11894
establishing a discount program for all persons who are issued a 11895
golden buckeye card under section 173.06 of the Revised Code. The 11896
discount program shall provide a discount for all park services 11897
and rentals, but shall not provide a discount for the purchase of 11898
merchandise. 11899

The division shall not adopt rules establishing fees or 11900
charges for parking a motor vehicle in a state park or for 11901
admission to a state park. 11902

Every resident of this state with a disability that has been 11903
determined by the veterans administration to be permanently and 11904
totally disabling, who receives a pension or compensation from the 11905
veterans administration, and who received an honorable discharge 11906
from the armed forces of the United States, and every veteran to 11907
whom the registrar of motor vehicles has issued a set of license 11908
plates under section 4503.41 of the Revised Code, shall be exempt 11909
from the fees for camping, provided that the resident or veteran 11910
carries in the state park such evidence of the resident's or 11911
veteran's disability as the chief of the division of parks and 11912
recreation prescribes by rule. 11913

~~Every~~ Unless otherwise provided by division rule, every 11914
resident of this state who is sixty-five years of age or older or 11915
who is permanently and totally disabled and who furnishes evidence 11916
of that age or disability in a manner prescribed by division rule 11917
shall be charged one-half of the regular fee for camping, except 11918
on the weekends and holidays designated by the division. ~~Such a~~ 11919
~~person,~~ and shall not be charged more than ninety per cent of the 11920
regular charges for state recreational facilities, equipment, 11921
services, and food service operations utilized by the person at 11922
any time of year, whether maintained or operated by the state or 11923
leased for operation by another entity. 11924

As used in this section, "food service operations" means 11925
restaurants that are owned by the department of natural resources 11926
at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state 11927
parks or are part of a state park lodge. "Food service operations" 11928
does not include automatic vending machines, concession stands, or 11929
snack bars. 11930

As used in this section, "prisoner of war" means any 11931
regularly appointed, enrolled, enlisted, or inducted member of the 11932
military forces of the United States who was captured, separated, 11933
and incarcerated by an enemy of the United States. Any person who 11934
has been a prisoner of war, was honorably discharged from the 11935
military forces, and is a resident of this state is exempt from 11936
the fees for camping. To claim this exemption, the person shall 11937
present written evidence in the form of a record of separation, a 11938
letter from one of the military forces of the United States, or 11939
such other evidence as the chief prescribes by rule that satisfies 11940
the eligibility criteria established by this section. 11941

Sec. 1547.721. As used in sections 1547.721 to 1547.726 of 11942
the Revised Code: 11943

(A) "Eligible project" means a project that involves the 11944
acquisition, construction, establishment, reconstruction, 11945
rehabilitation, renovation, enlargement, improvement, equipping, 11946
furnishing, or development of either of the following: 11947

(1) Marine recreational facilities; 11948

(2) Refuge harbors and other projects for the harboring, 11949
mooring, docking, launching, and storing of light draft vessels. 11950

(B) "Marine recreational facilities," "refuge harbors," 11951
"light draft vessels," and "allowable costs" have the meanings 11952
established in rules adopted under section 1547.723 of the Revised 11953
Code. 11954

(C) "Revolving loan program" means the loan program 11955
established under sections 1547.721 to 1547.726 of the Revised 11956
Code. 11957

(D) "State agency" has the same meaning as in section 9.66 of 11958
the Revised Code. 11959

Sec. 1547.722. There is hereby created in the state treasury 11960
the watercraft revolving loan fund consisting of money 11961
appropriated or transferred to it, money received and credited to 11962
the fund under section 1547.726 of the Revised Code, and any 11963
grants, gifts, or contributions of moneys received for deposit to 11964
the credit of the fund. 11965

The director of natural resources shall use money in the 11966
watercraft revolving loan fund for the purpose of making loans 11967
under section 1547.724 of the Revised Code for eligible projects 11968
and taking actions under sections 1547.721 to 1547.726 of the 11969
Revised Code necessary to fulfill that purpose. The director may 11970
establish separate accounts in the fund for particular projects or 11971
otherwise. Income from the investment of money in the fund shall 11972
be credited to the fund, and, if the director so requires, to 11973
particular accounts in the fund. 11974

Sec. 1547.723. (A) The director of natural resources shall 11975
adopt rules under Chapter 119. of the Revised Code that the 11976
director determines to be necessary for the implementation of the 11977
revolving loan program. The rules shall include a definition of 11978
what constitutes "allowable costs" of an eligible project for 11979
purposes of the program together with a definition of "marine 11980
recreational facilities," "refuge harbors," and "light draft 11981
vessels," respectively. 11982

(B) The director may delegate any of the director's duties or 11983
responsibilities under sections 1547.721 to 1547.726 of the 11984

Revised Code to the chief of the division of watercraft. 11985

Sec. 1547.724. (A) With the approval of the controlling board, and subject to the other applicable provisions of sections 1547.721 to 1547.726 of the Revised Code, the director of natural resources may lend moneys in the watercraft revolving loan fund to public or private entities for the purpose of paying the allowable costs of an eligible project. Loans shall be made under this division only if the director determines that all of the following apply: 11986
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(1) The project is an eligible project and is economically sound; 11994
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(2) The borrower is unable to finance the necessary allowable costs through ordinary financial channels upon comparable terms; 11996
11997

(3) The repayment of the loan will be adequately secured by a mortgage, lien, assignment, or pledge at a level of priority as the director may require; 11998
11999
12000

(4) The amount of the loan does not exceed ninety per cent of the total cost of the project. 12001
12002

(B) The determinations of the director under division (A) of this section shall be conclusive for purposes of the validity of a loan commitment evidenced by a loan agreement signed by the director. Further, the director's determinations that a project constitutes an eligible project and that the costs of such a project are allowable costs, together with all other determinations relevant to the project or to an action taken or agreement entered into under sections 1547.721 to 1547.726 of the Revised Code shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken and agreements entered into under those sections. 12003
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(C) The director may take any actions necessary or 12014

appropriate with respect to a loan made under this section, 12015
including facilitating the collection of amounts due on a loan. 12016

Sec. 1547.725. For purposes of the revolving loan program, 12017
the director of natural resources may do any of the following: 12018

(A) Establish fees, charges, rates of interest, times of 12019
payment of interest and principal, and other terms, conditions, 12020
and provisions of and security for loans made from the watercraft 12021
revolving loan fund that the director determines to be appropriate 12022
and in furtherance of the purpose for which the loans are made; 12023

(B) Retain the services of or employ financial consultants, 12024
appraisers, consulting engineers, superintendents, managers, 12025
construction and accounting experts, attorneys, and employees, 12026
agents, and independent contractors that the director determines 12027
to be necessary and fix the compensation for their services; 12028

(C) Receive and accept from any person grants, gifts, 12029
contributions of money, property, labor, and other things of value 12030
to be held, used, and applied only for the purpose for which such 12031
grants, gifts, and contributions are made; 12032

(D) Enter into appropriate agreements with other governmental 12033
entities to provide for all of the following: 12034

(1) Payment of allowable costs related to the development of 12035
eligible projects for which loans have been made from the 12036
watercraft revolving loan fund; 12037

(2) Any governmental action a governmental entity is 12038
authorized to take, including undertaking on behalf and at the 12039
request of the director any action that the director is authorized 12040
to undertake pursuant to sections 1547.721 to 1547.725 of the 12041
Revised Code; 12042

(3) The operation of facilities associated with eligible 12043
projects. 12044

All state agencies shall cooperate with and provide 12045
assistance to the director as is necessary for the administration 12046
of sections 1547.721 to 1547.726 of the Revised Code. 12047

Sec. 1547.726. All money received by the state from the 12048
repayment of loans made from the watercraft revolving loan fund, 12049
including interest, fees, and charges associated with such loans, 12050
shall be deposited to the credit of the watercraft revolving loan 12051
fund. 12052

Sec. 1548.06. (A)(1) Application for a certificate of title 12053
for a watercraft or outboard motor shall be made upon a form 12054
prescribed by the chief of the division of watercraft and shall be 12055
sworn to before a notary public or other officer empowered to 12056
administer oaths. The application shall be filed with the clerk of 12057
any court of common pleas. An application for a certificate of 12058
title may be filed electronically by any electronic means approved 12059
by the chief in any county with the clerk of the court of common 12060
pleas of that county. The application shall be accompanied by the 12061
fee prescribed in section 1548.10 of the Revised Code. The fee 12062
shall be retained by the clerk who issues the certificate of title 12063
and shall be distributed in accordance with that section. If a 12064
clerk of a court of common pleas, other than the clerk of the 12065
court of common pleas of an applicant's county of residence, 12066
issues a certificate of title to the applicant, the clerk shall 12067
transmit data related to the transaction to the automated title 12068
processing system. 12069

(2) If a certificate of title previously has been issued for 12070
the watercraft or outboard motor, the application for a 12071
certificate of title also shall be accompanied by the certificate 12072
of title duly assigned unless otherwise provided in this chapter. 12073
If a certificate of title previously has not been issued for the 12074

watercraft or outboard motor in this state, the application, 12075
unless otherwise provided in this chapter, shall be accompanied by 12076
a manufacturer's or importer's certificate; by a sworn statement 12077
of ownership if the watercraft or outboard motor was purchased by 12078
the applicant on or before October 9, 1963, or if the watercraft 12079
is less than fourteen feet long with a permanently affixed 12080
mechanical means of propulsion and was purchased by the applicant 12081
on or before January 1, 2000; or by a certificate of title, bill 12082
of sale, or other evidence of ownership required by the law of 12083
another state from which the watercraft or outboard motor was 12084
brought into this state. Evidence of ownership of a watercraft or 12085
outboard motor for which an Ohio certificate of title previously 12086
has not been issued and which watercraft or outboard motor does 12087
not have permanently affixed to it a manufacturer's serial number 12088
shall be accompanied by the certificate of assignment of a hull 12089
identification number assigned by the chief as provided in section 12090
1548.07 of the Revised Code. 12091

(3) The clerk shall retain the evidence of title presented by 12092
the applicant and on which the certificate of title is issued, 12093
except that, if an application for a certificate of title is filed 12094
electronically, by a vendor on behalf of a purchaser of a 12095
watercraft or outboard motor, the clerk shall retain the completed 12096
electronic record to which the vendor converted the certificate of 12097
title application and other required documents. The chief, after 12098
consultation with the attorney general, shall adopt rules that 12099
govern the location at which, and the manner in which, are stored 12100
the actual application and all other documents relating to the 12101
sale of a watercraft or outboard motor when a vendor files the 12102
application for a certificate of title electronically on behalf of 12103
a purchaser. 12104

(B) The clerk shall use reasonable diligence in ascertaining 12105
whether the facts in the application are true by checking the 12106

application and documents accompanying it or the electronic record 12107
to which a vendor converted the application and accompanying 12108
documents with the records of watercraft and outboard motors in 12109
the clerk's office. If the clerk is satisfied that the applicant 12110
is the owner of the watercraft or outboard motor and that the 12111
application is in the proper form, the clerk shall issue a 12112
physical certificate of title over the clerk's signature and 12113
sealed with the clerk's seal unless the applicant specifically 12114
requests the clerk not to issue a physical certificate of title 12115
and instead to issue an electronic certificate of title. However, 12116
if the evidence indicates and an investigation shows that one or 12117
more Ohio titles already exist for the watercraft or outboard 12118
motor, the chief may cause the redundant title or titles to be 12119
canceled. 12120

(C) In the case of the sale of a watercraft or outboard motor 12121
by a vendor to a general purchaser or user, the certificate of 12122
title shall be obtained in the name of the purchaser by the vendor 12123
upon application signed by the purchaser. In all other cases, the 12124
certificate shall be obtained by the purchaser. In all cases of 12125
transfer of watercraft or outboard motors, the application for 12126
certificate of title shall be filed within thirty days after the 12127
later of the date of purchase or assignment of ownership of the 12128
watercraft or outboard motor. If the application for certificate 12129
of title is not filed within thirty days after the later of the 12130
date of purchase or assignment of ownership of the watercraft or 12131
outboard motor, the clerk shall charge a late penalty fee of five 12132
dollars in addition to the fee prescribed by section 1548.10 of 12133
the Revised Code. The clerk shall retain the entire amount of each 12134
late penalty fee. 12135

(D) The clerk shall refuse to accept an application for 12136
certificate of title unless the applicant either tenders with the 12137
application payment of all taxes levied by or pursuant to Chapter 12138

5739. or 5741. of the Revised Code based on the applicant's county 12139
of residence less, in the case of a sale by a vendor, any discount 12140
to which the vendor is entitled under section 5739.12 of the 12141
Revised Code, or submits any of the following: 12142

~~(A)~~(1) A receipt issued by the tax commissioner or a clerk of 12143
courts showing payment of the tax; 12144

~~(B)~~(2) A copy of the unit certificate of exemption completed 12145
by the purchaser at the time of sale as provided in section 12146
5739.03 of the Revised Code; 12147

~~(C)~~(3) An exemption certificate, in a form prescribed by the 12148
tax commissioner, that specifies why the purchase is not subject 12149
to the tax imposed by Chapter 5739. or 5741. of the Revised Code. 12150

Payment of the tax shall be in accordance with rules issued 12151
by the tax commissioner, and the clerk shall issue a receipt in 12152
the form prescribed by the tax commissioner to any applicant who 12153
tenders payment of the tax with the application for the 12154
certificate of title. 12155

(E)(1) For receiving and disbursing the taxes paid to the 12156
clerk by a resident of the clerk's county, the clerk may retain a 12157
poundage fee of one and one one-hundredth per cent of the taxes 12158
collected, which shall be paid into the certificate of title 12159
administration fund created by section 325.33 of the Revised Code. 12160
The clerk shall not retain a poundage fee from payments of taxes 12161
by persons who do not reside in the clerk's county. 12162

(2) A clerk, however, may retain from the taxes paid to the 12163
clerk an amount equal to the poundage fees associated with 12164
certificates of title issued by other clerks of courts of common 12165
pleas to applicants who reside in the first clerk's county. The 12166
chief of the division of watercraft, in consultation with the tax 12167
commissioner and the clerks of the courts of common pleas, shall 12168
develop a report from the automated title processing system that 12169

informs each clerk of the amount of the poundage fees that the 12170
clerk is permitted to retain from those taxes because of 12171
certificates of title issued by the clerks of other counties to 12172
applicants who reside in the first clerk's county. 12173

(F) In the case of casual sales of watercraft or outboard 12174
motors that are subject to the tax imposed by Chapter 5739. or 12175
5741. of the Revised Code, the purchase price for the purpose of 12176
determining the tax shall be the purchase price on an affidavit 12177
executed and filed with the clerk by the vendor on a form to be 12178
prescribed by the chief, which shall be prima-facie evidence of 12179
the price for the determination of the tax. In addition to the 12180
information required by section 1548.08 of the Revised Code, each 12181
certificate of title shall contain in bold lettering the following 12182
notification and statements: "WARNING TO TRANSFEROR AND TRANSFEREE 12183
(SELLER AND BUYER). You are required by law to state the true 12184
selling price. A false statement is a violation of section 2921.13 12185
of the Revised Code and is punishable by six months imprisonment 12186
or a fine of up to one thousand dollars, or both. All transfers 12187
are audited by the department of taxation. The seller and buyer 12188
must provide any information requested by the department of 12189
taxation. The buyer may be assessed any additional tax found to be 12190
due." 12191

~~The clerk shall forward all payments of taxes, less poundage 12192
fees, to the treasurer of state in a manner to be prescribed by 12193
the tax commissioner and shall furnish information to the 12194
commissioner as the commissioner may require.~~ (G) Each county 12195
clerk of courts shall forward to the treasurer of state all sales 12196
and use tax collections resulting from sales of titled watercraft 12197
and outboard motors during a calendar week on or before the Friday 12198
following the close of that week. If, on any Friday, the offices 12199
of the clerk of courts or the state are not open for business, the 12200
tax shall be forwarded to the treasurer of state on or before the 12201

next day on which the offices are open. Every remittance of tax 12202
under this division shall be accompanied by a remittance report in 12203
such form as the tax commissioner prescribes. Upon receipt of a 12204
tax remittance and remittance report, the treasurer of state shall 12205
date stamp the report and forward it to the tax commissioner. If 12206
the tax due for any week is not remitted by a clerk of courts as 12207
required under this division, the clerk shall forfeit the poundage 12208
fees for the sales made during that week. The treasurer of state 12209
may require the clerks of courts to transmit tax collections and 12210
remittance reports electronically. 12211

(H) For purposes of a transfer of a certificate of title, if 12212
the clerk is satisfied that a secured party has discharged a lien 12213
but has not canceled the lien notation with a clerk, the clerk may 12214
cancel the lien notation on the automated title processing system 12215
and notify the clerk of the county of origin. 12216

(I) Every clerk shall have the capability to transact by 12217
electronic means all procedures and transactions relating to the 12218
issuance of watercraft or outboard motor certificates of title 12219
that are described in the Revised Code as being accomplished by 12220
electronic means. 12221

Sec. 1711.53. (A)(1) No person shall operate an amusement 12222
ride within the state without a permit issued by the director of 12223
agriculture under division (A)(2) of this section. The owner of an 12224
amusement ride, whether the ride is a temporary amusement ride or 12225
a permanent amusement ride, who desires to operate the amusement 12226
ride within the state shall, prior to the operation of the 12227
amusement ride and annually thereafter, submit to the department 12228
of agriculture an application for a permit, together with the 12229
appropriate permit and inspection fee, on a form to be furnished 12230
by the department. Prior to issuing any permit the department 12231
shall, within thirty days after the date on which it receives the 12232

application, inspect each amusement ride described in the 12233
application. The owner of an amusement ride shall have the 12234
amusement ride ready for inspection not later than two hours after 12235
the time that is requested by the person for the inspection. 12236

(2) For each amusement ride found to comply with the rules 12237
adopted by the director under division (B) of this section and 12238
division (B) of section 1711.551 of the Revised Code, the director 12239
shall issue an annual permit, provided that evidence of liability 12240
insurance coverage for the amusement ride as required by section 12241
1711.54 of the Revised Code is on file with the department. 12242

(3) The director shall issue with each permit a decal 12243
indicating that the amusement ride has been issued the permit. The 12244
owner of the amusement ride shall affix the decal on the ride at a 12245
location where the decal is easily visible to the patrons of the 12246
ride. A copy of the permit shall be kept on file at the same 12247
address as the location of the amusement ride identified on the 12248
permit, and shall be made available for inspection, upon 12249
reasonable demand, by any person. An owner may operate an 12250
amusement ride prior to obtaining a permit, provided that the 12251
operation is for the purpose of testing the amusement ride or 12252
training amusement ride operators and other employees of the owner 12253
and the amusement ride is not open to the public. 12254

(B) The director, in accordance with Chapter 119. of the 12255
Revised Code, shall adopt rules providing for a schedule of fines, 12256
with no fine exceeding five thousand dollars, for violations of 12257
sections 1711.50 to 1711.57 of the Revised Code or any rules 12258
adopted under this division and for the classification of 12259
amusement rides and rules for the safe operation and inspection of 12260
all amusement rides as are necessary for amusement ride safety and 12261
for the protection of the general public. Rules adopted by the 12262
director for the safe operation and inspection of amusement rides 12263
shall be reasonable and based upon generally accepted engineering 12264

standards and practices. In adopting rules under this section, the 12265
director may adopt by reference, in whole or in part, the national 12266
fire code or the national electrical code prepared by the national 12267
fire protection association, the standards of ASTM or the American 12268
national standards institute, or any other principles, tests, or 12269
standards of nationally recognized technical or scientific 12270
authorities. Insofar as is practicable and consistent with 12271
sections 1711.50 to 1711.57 of the Revised Code, rules adopted 12272
under this division shall be consistent with the rules of other 12273
states. The department shall cause sections 1711.50 to 1711.57 of 12274
the Revised Code and the rules adopted in accordance with this 12275
division and division (B) of section 1711.551 of the Revised Code 12276
to be published in pamphlet form and a copy to be furnished 12277
without charge to each owner of an amusement ride who holds a 12278
current permit or is an applicant therefor. 12279

(C) With respect to an application for a permit for an 12280
amusement ride, an owner may apply to the director for a waiver or 12281
modification of any rule adopted under division (B) of this 12282
section if there are practical difficulties or unnecessary 12283
hardships for the amusement ride to comply with the rules. Any 12284
application shall set forth the reasons for the request. The 12285
director, with the approval of the advisory council on amusement 12286
ride safety, may waive or modify the application of a rule to any 12287
amusement ride if the public safety is secure. Any authorization 12288
by the director under this division shall be in writing and shall 12289
set forth the conditions under which the waiver or modification is 12290
authorized, and the department shall retain separate records of 12291
all proceedings under this division. 12292

(D)(1) The director shall employ and provide for training of 12293
a chief inspector and additional inspectors and employees as may 12294
be necessary to administer and enforce sections 1711.50 to 1711.57 12295
of the Revised Code. The director may appoint or contract with 12296

other persons to perform inspections of amusement rides, provided 12297
that the persons meet the qualifications for inspectors 12298
established by rules adopted under division (B) of this section 12299
and are not owners, or employees of owners, of any amusement ride 12300
subject to inspection under sections 1711.50 to 1711.57 of the 12301
Revised Code. No person shall inspect an amusement ride who, 12302
within six months prior to the date of inspection, was an employee 12303
of the owner of the ride. 12304

(2) Before the director contracts with other persons to 12305
inspect amusement rides, the director shall seek the advice of the 12306
advisory council on amusement ride safety on whether to contract 12307
with those persons. The advice shall not be binding upon the 12308
director. After having received the advice of the council, the 12309
director may proceed to contract with inspectors in accordance 12310
with the procedures specified in division (E)(2) of section 12311
1711.11 of the Revised Code. 12312

(3) With the advice and consent of the advisory council on 12313
amusement ride safety, the director may employ a special 12314
consultant to conduct an independent investigation of an amusement 12315
ride accident. This consultant need not be in the civil service of 12316
the state, but shall have qualifications to conduct the 12317
investigation acceptable to the council. 12318

(E)(1) Except as otherwise provided in division (E)(1) of 12319
this section, the department shall charge the following amusement 12320
ride fees: 12321

Permit for residential \$ 50 12322
amusement ride

Permit for commercial amusement \$ 150 12323
ride

Annual inspection and reinspection per ride: 12324

Kiddie rides \$ 100 12325

Roller coaster \$ 950 12326

Aerial lifts or bungee		12327
jumping facilities	\$ 450	12328
Go karts	\$ 5	12329
Other rides	\$ 160	12330
Midseason operational inspection per ride	\$ 25	12331
Expedited inspection per ride	\$ 100	12332
Failure to cancel scheduled inspection per ride	\$ 100	12333
Failure to have amusement ride ready for inspection per ride	\$100	12334 12335
The go kart inspection fee is in addition to the inspection fee for the go kart track.		12336 12337
The fees for an expedited inspection, failure to cancel a scheduled inspection, and failure to have an amusement ride ready for inspection do not apply to go karts.		12338 12339 12340
As used in division (E)(1) of this section, "expedited inspection" means an inspection of an amusement ride by the department not later than ten days after the owner of the amusement ride files an application for a permit under this section.		12341 12342 12343 12344 12345
(2) All fees and fines collected by the department under sections 1711.50 to 1711.57 of the Revised Code shall be deposited in the state treasury to the credit of the amusement ride inspection fund, which is hereby created, and shall be used only for the purpose of administering and enforcing sections 1711.11 and 1711.50 to 1711.57 of the Revised Code.		12346 12347 12348 12349 12350 12351
(3) The owner of an amusement ride shall be required to pay a reinspection fee only if the reinspection was conducted at the owner's request under division (F) of this section, if the reinspection is required by division (F) of this section because of an accident, or if the reinspection is required by division (F) of section 1711.55 of the Revised Code. If a reinspection is		12352 12353 12354 12355 12356 12357

conducted at the request of the chief officer of a fair, festival, 12358
or event where the ride is operating, the reinspection fee shall 12359
be charged to the fair, festival, or event. 12360

(4) The rules adopted under division (B) of this section 12361
shall define "kiddie rides," "roller coaster," "aerial lifts," "go 12362
karts," and "other rides" for purposes of determining the fees 12363
under division (E) of this section. The rules shall define "other 12364
rides" to include go kart tracks. 12365

(F) A reinspection of an amusement ride shall take place if 12366
an accident occurs, if the owner of the ride or the chief officer 12367
of the fair, festival, or event where the ride is operating 12368
requests a reinspection, or if the reinspection is required by 12369
division (F) of section 1711.55 of the Revised Code. 12370

(G) As a supplement to its annual inspection of a temporary 12371
amusement ride, the department may inspect the ride during each 12372
scheduled event, as listed in the schedule of events provided to 12373
the department by the owner pursuant to division (C) of section 12374
1711.55 of the Revised Code, at which the ride is operated in this 12375
state. These supplemental inspections are in addition to any other 12376
inspection or reinspection of the ride as may be required under 12377
sections 1711.50 to 1711.57 of the Revised Code, and the owner of 12378
the temporary amusement ride is not required to pay an inspection 12379
or reinspection fee for this supplemental inspection. Nothing in 12380
this division shall be construed to prohibit the owner of a 12381
temporary amusement ride having a valid permit to operate in this 12382
state from operating the ride at a scheduled event before the 12383
department conducts a supplemental inspection. 12384

(H) The department may annually conduct a midseason 12385
operational inspection of every amusement ride upon which it 12386
conducts an annual inspection pursuant to division (A) of this 12387
section. The midseason operational inspection is in addition to 12388

any other inspection or reinspection of the amusement ride as may
be required pursuant to sections 1711.50 to 1711.57 of the Revised
Code. The owner of an amusement ride shall submit to the
department, at the time determined by the department, the
midseason operational inspection fee specified in division (E) of
this section. The director, in accordance with Chapter 119. of the
Revised Code, shall adopt rules specifying the time period during
which the department will conduct midseason operational
inspections.

Sec. 1713.03. The Ohio board of regents shall establish
standards for certificates of authorization to be issued to
institutions as defined in section 1713.01 of the Revised Code, to
private institutions exempt from regulation under Chapter 3332. of
the Revised Code as prescribed in section 3333.046 of the Revised
Code, and to schools holding certificates of registration issued
by the state board of career colleges and schools pursuant to
division (C) of section 3332.05 of the Revised Code. A certificate
of authorization may permit an institution or school to award one
or more types of degrees.

The standards for a certificate of authorization may include,
for various types of institutions, schools, or degrees, minimum
qualifications for faculty, library, laboratories, and other
facilities as adopted and published by the Ohio board of regents.
The standards shall be adopted by the board pursuant to Chapter
119. of the Revised Code.

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.

The board shall adopt a rule under Chapter 119. of the 12420
Revised Code establishing fees to pay the cost of reviewing an 12421
application for a certificate of authorization, which the 12422
institution or school shall pay when it applies for a certificate 12423
of authorization, and establishing fees, which an institution or 12424
school shall pay, for any further reviews the board determines 12425
necessary upon examining an institution's or school's annual 12426
report. 12427

Sec. 1751.03. (A) Each application for a certificate of 12428
authority under this chapter shall be verified by an officer or 12429
authorized representative of the applicant, shall be in a format 12430
prescribed by the superintendent of insurance, and shall set forth 12431
or be accompanied by the following: 12432

(1) A certified copy of the applicant's articles of 12433
incorporation and all amendments to the articles of incorporation; 12434

(2) A copy of any regulations adopted for the government of 12435
the corporation, any bylaws, and any similar documents, and a copy 12436
of all amendments to these regulations, bylaws, and documents. The 12437
corporate secretary shall certify that these regulations, bylaws, 12438
documents, and amendments have been properly adopted or approved. 12439

(3) A list of the names, addresses, and official positions of 12440
the persons responsible for the conduct of the applicant, 12441
including all members of the board, the principal officers, and 12442
the person responsible for completing or filing financial 12443
statements with the department of insurance, accompanied by a 12444
completed original biographical affidavit and release of 12445
information for each of these persons on forms acceptable to the 12446
department; 12447

(4) A full and complete disclosure of the extent and nature 12448
of any contractual or other financial arrangement between the 12449

applicant and any provider or a person listed in division (A)(3) 12450
of this section, including, but not limited to, a full and 12451
complete disclosure of the financial interest held by any such 12452
provider or person in any health care facility, provider, or 12453
insurer that has entered into a financial relationship with the 12454
health insuring corporation; 12455

(5) A description of the applicant, its facilities, and its 12456
personnel, including, but not limited to, the location, hours of 12457
operation, and telephone numbers of all contracted facilities; 12458

(6) The applicant's projected annual enrollee population over 12459
a three-year period; 12460

(7) A clear and specific description of the health care plan 12461
or plans to be used by the applicant, including a description of 12462
the proposed providers, procedures for accessing care, and the 12463
form of all proposed and existing contracts relating to the 12464
administration, delivery, or financing of health care services; 12465

(8) A copy of each type of evidence of coverage and 12466
identification card or similar document to be issued to 12467
subscribers; 12468

(9) A copy of each type of individual or group policy, 12469
contract, or agreement to be used; 12470

(10) The schedule of the proposed contractual periodic 12471
prepayments or premium rates, or both, accompanied by appropriate 12472
supporting data; 12473

(11) A financial plan which provides a three-year projection 12474
of operating results, including the projected expenses, income, 12475
and sources of working capital; 12476

(12) The enrollee complaint procedure to be utilized as 12477
required under section 1751.19 of the Revised Code; 12478

(13) A description of the procedures and programs to be 12479

implemented on an ongoing basis to assure the quality of health 12480
care services delivered to enrollees, including, if applicable, a 12481
description of a quality assurance program complying with the 12482
requirements of sections 1751.73 to 1751.75 of the Revised Code; 12483

(14) A statement describing the geographic area or areas to 12484
be served, by county; 12485

(15) A copy of all solicitation documents; 12486

(16) A balance sheet and other financial statements showing 12487
the applicant's assets, liabilities, income, and other sources of 12488
financial support; 12489

(17) A description of the nature and extent of any 12490
reinsurance program to be implemented, and a demonstration that 12491
errors and omission insurance and, if appropriate, fidelity 12492
insurance, will be in place upon the applicant's receipt of a 12493
certificate of authority; 12494

(18) Copies of all proposed or in force related-party or 12495
intercompany agreements with an explanation of the financial 12496
impact of these agreements on the applicant. If the applicant 12497
intends to enter into a contract for managerial or administrative 12498
services, with either an affiliated or an unaffiliated person, the 12499
applicant shall provide a copy of the contract and a detailed 12500
description of the person to provide these services. The 12501
description shall include that person's experience in managing or 12502
administering health care plans, a copy of that person's most 12503
recent audited financial statement, and a completed biographical 12504
affidavit on a form acceptable to the superintendent for each of 12505
that person's principal officers and board members and for any 12506
additional employee to be directly involved in providing 12507
managerial or administrative services to the health insuring 12508
corporation. If the person to provide managerial or administrative 12509
services is affiliated with the health insuring corporation, the 12510

contract must provide for payment for services based on actual	12511
costs.	12512
(19) A statement from the applicant's board that the admitted	12513
assets of the applicant have not been and will not be pledged or	12514
hypothecated;	12515
(20) A statement from the applicant's board that the	12516
applicant will submit monthly financial statements during the	12517
first year of operations;	12518
(21) The name and address of the applicant's Ohio statutory	12519
agent for service of process, notice, or demand;	12520
(22) Copies of all documents the applicant filed with the	12521
secretary of state;	12522
(23) The location of those books and records of the applicant	12523
that must be maintained, which books and records shall be	12524
maintained in Ohio if the applicant is a domestic corporation, and	12525
which may be maintained either in the applicant's state of	12526
domicile or in Ohio if the applicant is a foreign corporation;	12527
(24) The applicant's federal identification number, corporate	12528
address, and mailing address;	12529
(25) An internal and external organizational chart;	12530
(26) A list of the assets representing the initial net worth	12531
of the applicant;	12532
(27) If the applicant has a parent company, the parent	12533
company's guaranty, on a form acceptable to the superintendent,	12534
that the applicant will maintain Ohio's minimum net worth. If no	12535
parent company exists, a statement regarding the availability of	12536
future funds if needed.	12537
(28) The names and addresses of the applicant's actuary and	12538
external auditors;	12539

(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;

(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;

(31) Any other information that the superintendent may require;

(32) Documentation acceptable to the superintendent of the bond or securities required by section 1751.271 of the Revised Code.

(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:

(a) The solvency of the health insuring corporation;

(b) The health insuring corporation's continued provision of services that it has contracted to provide;

(c) The manner in which the health insuring corporation conducts its business.

(2) If the change or modification is to be the result of an action to be taken by the health insuring corporation, the notice shall be filed with the superintendent prior to the health insuring corporation taking the action. The action shall be deemed approved if the superintendent does not disapprove it within sixty

days of filing. 12570

(3) The filing of a notice pursuant to division (B)(1) or (2) 12571
of this section shall also serve as the submission of a notice 12572
when required for the superintendent's review for purposes of 12573
section 3901.341 of the Revised Code, if the notice contains all 12574
of the information that section 3901.341 of the Revised Code 12575
requires for such submissions and a copy of any written agreement. 12576
The filing of such a notice, for the purpose of satisfying this 12577
division and section 3901.341 of the Revised Code, shall be 12578
subject to the sixty-day review period of division (B)(2) of this 12579
section. 12580

(C)(1) No health insuring corporation shall expand its 12581
approved service area until a copy of the request for expansion, 12582
accompanied by documentation of the network of providers, forms of 12583
all proposed or existing provider contracts relating to the 12584
delivery of health care services, a schedule of proposed 12585
contractual periodic prepayments and premium rates for group 12586
contracts accompanied by appropriate supporting data, enrollment 12587
projections, plan of operation, and any other changes have been 12588
filed with the superintendent. 12589

(2) Within ten calendar days after receipt of a complete 12590
filing under division (C)(1) of this section, the superintendent 12591
shall refer the appropriate jurisdictional issues to the director 12592
of health pursuant to section 1751.04 of the Revised Code. 12593

(3) Within seventy-five days after the superintendent's 12594
receipt of a complete filing under division (C)(1) of this 12595
section, the superintendent shall determine whether the plan for 12596
expansion is lawful, fair, and reasonable. The superintendent may 12597
not make a determination until the superintendent has received the 12598
director's certification of compliance, which the director shall 12599
furnish within forty-five days after referral under division 12600

(C)(2) of this section. The director shall not certify that the requirements of section 1751.04 of the Revised Code are not met, unless the applicant has been given an opportunity for a hearing as provided in division (D) of section 1751.04 of the Revised Code. The forty-five-day and seventy-five-day review periods provided for in division (C)(3) of this section shall cease to run as of the date on which the notice of the applicant's right to request a hearing is mailed and shall remain suspended until the director issues a final certification.

(4) If the superintendent has not approved or disapproved all or a portion of a service area expansion within the seventy-five-day period provided for in division (C)(3) of this section, the filing shall be deemed approved.

(5) Disapproval of all or a portion of the filing shall be effected by written notice, which shall state the grounds for the order of disapproval and shall be given in accordance with Chapter 119. of the Revised Code.

Sec. 1751.271. (A) Each health insuring corporation that provides coverage to medicaid recipients shall post a performance bond in the amount of one million dollars as security to fulfill the obligations of the health insuring corporation to pay claims of contracted providers for covered health care services provided to medicaid recipients. The bond shall be payable to the 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, 12632
the securities shall become a special deposit subject to sections 12633
3903.14 and 3903.421 of the Revised Code, as applicable. The 12634
health insuring corporation shall receive the interest on the 12635
deposited securities as long as the health insuring corporation 12636
remains solvent. 12637

(B) The bond shall be issued by a surety company licensed 12638
with the department of insurance. The bond or deposit, or any 12639
replacement bond or deposit, shall be in a form acceptable to the 12640
superintendent, and shall remain in effect during the duration of 12641
the medicaid health insuring corporation's license and thereafter 12642
until all claims against the medicaid health insuring corporation 12643
have been paid in full. 12644

(C) Documentation of the bond acceptable to the 12645
superintendent of insurance shall be filed with the superintendent 12646
prior to the issuance of a certificate of authority. Annually, 12647
thirty days prior to the renewal of its certificate of authority, 12648
every medicaid health insuring corporation shall furnish the 12649
superintendent of insurance with evidence that the required bond 12650
is still in effect. 12651

(D) As used in this section: 12652

(1) "Contracted provider" means a provider that has a 12653
contract with a medicaid health insuring corporation to provide 12654
covered health care services to medicaid recipients. 12655

(2) "Medicaid health insuring corporation" means a health 12656
insuring corporation that provides health insurance coverage or 12657
otherwise assumes claims liabilities for medicaid recipients. 12658

(3) "Medicaid recipient" means a person eligible for 12659
assistance under the medicaid program operated pursuant to Chapter 12660
5111. of the Revised Code. 12661

Sec. 1901.26. (A) Subject to division (E) of this section, 12662
costs in a municipal court shall be fixed and taxed as follows: 12663

(1) The municipal court shall require an advance deposit for 12664
the filing of any new civil action or proceeding when required by 12665
division (A)(9) of this section, and in all other cases, by rule, 12666
shall establish a schedule of fees and costs to be taxed in any 12667
civil or criminal action or proceeding. 12668

(2) The municipal court, by rule, may require an advance 12669
deposit for the filing of any civil action or proceeding and 12670
publication fees as provided in section 2701.09 of the Revised 12671
Code. The court may waive the requirement for advance deposit upon 12672
affidavit or other evidence that a party is unable to make the 12673
required deposit. 12674

(3) When a jury trial is demanded in any civil action or 12675
proceeding, the party making the demand may be required to make an 12676
advance deposit as fixed by rule of court, unless, upon affidavit 12677
or other evidence, the court concludes that the party is unable to 12678
make the required deposit. If a jury is called, the fees of a jury 12679
shall be taxed as costs. 12680

(4) In any civil or criminal action or proceeding, witnesses' 12681
fees shall be fixed in accordance with sections 2335.06 and 12682
2335.08 of the Revised Code. 12683

(5) A reasonable charge for driving, towing, carting, 12684
storing, keeping, and preserving motor vehicles and other personal 12685
property recovered or seized in any proceeding may be taxed as 12686
part of the costs in a trial of the cause, in an amount that shall 12687
be fixed by rule of court. 12688

(6) Chattel property seized under any writ or process issued 12689
by the court shall be preserved pending final disposition for the 12690
benefit of all persons interested and may be placed in storage 12691

when necessary or proper for that preservation. The custodian of
any chattel property so stored shall not be required to part with
the possession of the property until a reasonable charge, to be
fixed by the court, is paid.

(7) The municipal court, as it determines, may refund all
deposits and advance payments of fees and costs, including those
for jurors and summoning jurors, when they have been paid by the
losing party.

(8) Charges for the publication of legal notices required by
statute or order of court may be taxed as part of the costs, as
provided by section 7.13 of the Revised Code.

(B)(1) The municipal court may determine that, for the
efficient operation of the court, additional funds are necessary
to acquire and pay for special projects of the court including,
but not limited to, the acquisition of additional facilities or
the rehabilitation of existing facilities, the acquisition of
equipment, the hiring and training of staff, community service
programs, mediation or dispute resolution services, the employment
of magistrates, the training and education of judges, acting
judges, and magistrates, and other related services. Upon that
determination, the court by rule may charge a fee, in addition to
all other court costs, on the filing of each criminal cause, civil
action or proceeding, or judgment by confession.

If the municipal court offers a special program or service in
cases of a specific type, the municipal court by rule may assess
an additional charge in a case of that type, over and above court
costs, to cover the special program or service. The municipal
court shall adjust the special assessment periodically, but not
retroactively, so that the amount assessed in those cases does not
exceed the actual cost of providing the service or program.

All moneys collected under division (B) of this section shall

be paid to the county treasurer if the court is a county-operated
municipal court or to the city treasurer if the court is not a
county-operated municipal court for deposit into either a general
special projects fund or a fund established for a specific special
project. Moneys from a fund of that nature shall be disbursed upon
an order of the court in an amount no greater than the actual cost
to the court of a project. If a specific fund is terminated
because of the discontinuance of a program or service established
under division (B) of this section, the municipal court may order
that moneys remaining in the fund be transferred to an account
established under this division for a similar purpose.

(2) As used in division (B) of this section:

(a) "Criminal cause" means a charge alleging the violation of
a statute or ordinance, or subsection of a statute or ordinance,
that requires a separate finding of fact or a separate plea before
disposition and of which the defendant may be found guilty,
whether filed as part of a multiple charge on a single summons,
citation, or complaint or as a separate charge on a single
summons, citation, or complaint. "Criminal cause" does not include
separate violations of the same statute or ordinance, or
subsection of the same statute or ordinance, unless each charge is
filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation
that must be determined by judgment entry.

(c) The municipal court shall collect in all its divisions
except the small claims division the sum of ~~fifteen~~ twenty-five
dollars as additional filing fees in each new civil action or
proceeding for the charitable public purpose of providing
financial assistance to legal aid societies that operate within
the state. The municipal court shall collect in its small claims
division the sum of ~~seven~~ ten dollars as additional filing fees in

each new civil action or proceeding for the charitable public 12754
purpose of providing financial assistance to legal aid societies 12755
that operate within the state. This division does not apply to any 12756
execution on a judgment, proceeding in aid of execution, or other 12757
post-judgment proceeding arising out of a civil action. The filing 12758
fees required to be collected under this division shall be in 12759
addition to any other court costs imposed in the action or 12760
proceeding and shall be collected at the time of the filing of the 12761
action or proceeding. The court shall not waive the payment of the 12762
additional filing fees in a new civil action or proceeding unless 12763
the court waives the advanced payment of all filing fees in the 12764
action or proceeding. All such moneys collected during a month 12765
shall be transmitted on or before the ~~first-business~~ twentieth day 12766
of ~~each~~ the following month by the clerk of the court to the 12767
treasurer of state in a manner prescribed by the treasurer of 12768
state or by the Ohio legal assistance foundation. The moneys then 12769
shall be deposited by the treasurer of state to the credit of the 12770
legal aid fund established under section 120.52 of the Revised 12771
Code. 12772

The court may retain up to one per cent of the moneys it 12773
collects under this division to cover administrative costs, 12774
including the hiring of any additional personnel necessary to 12775
implement this division. 12776

(D) In the Cleveland municipal court, reasonable charges for 12777
investigating titles of real estate to be sold or disposed of 12778
under any writ or process of the court may be taxed as part of the 12779
costs. 12780

(E) Under the circumstances described in sections 2969.21 to 12781
2969.27 of the Revised Code, the clerk of the municipal court 12782
shall charge the fees and perform the other duties specified in 12783
those sections. 12784

Sec. 1901.31. The clerk and deputy clerks of a municipal 12785
court shall be selected, be compensated, give bond, and have 12786
powers and duties as follows: 12787

(A) There shall be a clerk of the court who is appointed or 12788
elected as follows: 12789

(1)(a) Except in the Akron, Barberton, Cuyahoga Falls, 12790
~~Medina~~, Toledo, Hamilton county, Portage county, and Wayne county 12791
municipal courts, if the population of the territory equals or 12792
exceeds one hundred thousand at the regular municipal election 12793
immediately preceding the expiration of the term of the present 12794
clerk, the clerk shall be nominated and elected by the qualified 12795
electors of the territory in the manner that is provided for the 12796
nomination and election of judges in section 1901.07 of the 12797
Revised Code. 12798

The clerk so elected shall hold office for a term of six 12799
years, which term shall commence on the first day of January 12800
following the clerk's election and continue until the clerk's 12801
successor is elected and qualified. 12802

(b) In the Hamilton county municipal court, the clerk of 12803
courts of Hamilton county shall be the clerk of the municipal 12804
court and may appoint an assistant clerk who shall receive the 12805
compensation, payable out of the treasury of Hamilton county in 12806
semimonthly installments, that the board of county commissioners 12807
prescribes. The clerk of courts of Hamilton county, acting as the 12808
clerk of the Hamilton county municipal court and assuming the 12809
duties of that office, shall receive compensation at one-fourth 12810
the rate that is prescribed for the clerks of courts of common 12811
pleas as determined in accordance with the population of the 12812
county and the rates set forth in sections 325.08 and 325.18 of 12813
the Revised Code. This compensation shall be paid from the county 12814
treasury in semimonthly installments and is in addition to the 12815

annual compensation that is received for the performance of the 12816
duties of the clerk of courts of Hamilton county, as provided in 12817
sections 325.08 and 325.18 of the Revised Code. 12818

(c) In the Portage county and Wayne county municipal courts, 12819
the clerks of courts of Portage county and Wayne county shall be 12820
the clerks, respectively, of the Portage county and Wayne county 12821
municipal courts and may appoint a chief deputy clerk for each 12822
branch that is established pursuant to section 1901.311 of the 12823
Revised Code and assistant clerks as the judges of the municipal 12824
court determine are necessary, all of whom shall receive the 12825
compensation that the legislative authority prescribes. The clerks 12826
of courts of Portage county and Wayne county, acting as the clerks 12827
of the Portage county and Wayne county municipal courts and 12828
assuming the duties of these offices, shall receive compensation 12829
payable from the county treasury in semimonthly installments at 12830
one-fourth the rate that is prescribed for the clerks of courts of 12831
common pleas as determined in accordance with the population of 12832
the county and the rates set forth in sections 325.08 and 325.18 12833
of the Revised Code. 12834

(d) Except as otherwise provided in division (A)(1)(d) of 12835
this section, in the Akron municipal court, candidates for 12836
election to the office of clerk of the court shall be nominated by 12837
primary election. The primary election shall be held on the day 12838
specified in the charter of the city of Akron for the nomination 12839
of municipal officers. Notwithstanding section 3513.257 of the 12840
Revised Code, the nominating petitions of independent candidates 12841
shall be signed by at least two hundred fifty qualified electors 12842
of the territory of the court. 12843

The candidates shall file a declaration of candidacy and 12844
petition, or a nominating petition, whichever is applicable, not 12845
later than four p.m. of the seventy-fifth day before the day of 12846
the primary election, in the form prescribed by section 3513.07 or 12847

3513.261 of the Revised Code. The declaration of candidacy and
petition, or the nominating petition, shall conform to the
applicable requirements of section 3513.05 or 3513.257 of the
Revised Code.

If no valid declaration of candidacy and petition is filed by
any person for nomination as a candidate of a particular political
party for election to the office of clerk of the Akron 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 Akron 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.

~~(e) Irrespective of the population of the territory of the
Medina municipal court, the clerk of that court shall be appointed
pursuant to division (A)(2)(a) of this section by the judges of
that court, shall hold office until the clerk's successor is~~

~~similarly appointed and qualified, and shall receive pursuant to 12880
division (C) of this section the annual compensation that the 12881
legislative authority prescribes and that is payable in 12882
semimonthly installments from the same sources and in the same 12883
manner as provided in section 1901.11 of the Revised Code. 12884~~

~~(f)~~ Except as otherwise provided in division (A)(1)~~(f)~~(e) of 12885
this section, in the Barberton municipal court, candidates for 12886
election to the office of clerk of the court shall be nominated by 12887
primary election. The primary election shall be held on the day 12888
specified in the charter of the city of Barberton for the 12889
nomination of municipal officers. Notwithstanding section 3513.257 12890
of the Revised Code, the nominating petitions of independent 12891
candidates shall be signed by at least two hundred fifty qualified 12892
electors of the territory of the court. 12893

The candidates shall file a declaration of candidacy and 12894
petition, or a nominating petition, whichever is applicable, not 12895
later than four p.m. of the seventy-fifth day before the day of 12896
the primary election, in the form prescribed by section 3513.07 or 12897
3513.261 of the Revised Code. The declaration of candidacy and 12898
petition, or the nominating petition, shall conform to the 12899
applicable requirements of section 3513.05 or 3513.257 of the 12900
Revised Code. 12901

If no valid declaration of candidacy and petition is filed by 12902
any person for nomination as a candidate of a particular political 12903
party for election to the office of clerk of the Barberton 12904
municipal court, a primary election shall not be held for the 12905
purpose of nominating a candidate of that party for election to 12906
that office. If only one person files a valid declaration of 12907
candidacy and petition for nomination as a candidate of a 12908
particular political party for election to that office, a primary 12909
election shall not be held for the purpose of nominating a 12910
candidate of that party for election to that office, and the 12911

candidate shall be issued a certificate of nomination in the 12912
manner set forth in section 3513.02 of the Revised Code. 12913

Declarations of candidacy and petitions, nominating 12914
petitions, and certificates of nomination for the office of clerk 12915
of the Barberton municipal court shall contain a designation of 12916
the term for which the candidate seeks election. At the following 12917
regular municipal election, all candidates for the office shall be 12918
submitted to the qualified electors of the territory of the court 12919
in the manner that is provided in section 1901.07 of the Revised 12920
Code for the election of the judges of the court. The clerk so 12921
elected shall hold office for a term of six years, which term 12922
shall commence on the first day of January following the clerk's 12923
election and continue until the clerk's successor is elected and 12924
qualified. 12925

~~(g)~~(f) Except as otherwise provided in division (A)(1)~~(g)~~(f) 12926
of this section, in the Cuyahoga Falls municipal court, candidates 12927
for election to the office of clerk of the court shall be 12928
nominated by primary election. The primary election shall be held 12929
on the day specified in the charter of the city of Cuyahoga Falls 12930
for the nomination of municipal officers. Notwithstanding section 12931
3513.257 of the Revised Code, the nominating petitions of 12932
independent candidates shall be signed by at least two hundred 12933
fifty qualified electors of the territory of the court. 12934

The candidates shall file a declaration of candidacy and 12935
petition, or a nominating petition, whichever is applicable, not 12936
later than four p.m. of the seventy-fifth day before the day of 12937
the primary election, in the form prescribed by section 3513.07 or 12938
3513.261 of the Revised Code. The declaration of candidacy and 12939
petition, or the nominating petition, shall conform to the 12940
applicable requirements of section 3513.05 or 3513.257 of the 12941
Revised Code. 12942

If no valid declaration of candidacy and petition is filed by 12943
any person for nomination as a candidate of a particular political 12944
party for election to the office of clerk of the Cuyahoga Falls 12945
municipal court, a primary election shall not be held for the 12946
purpose of nominating a candidate of that party for election to 12947
that office. If only one person files a valid declaration of 12948
candidacy and petition for nomination as a candidate of a 12949
particular political party for election to that office, a primary 12950
election shall not be held for the purpose of nominating a 12951
candidate of that party for election to that office, and the 12952
candidate shall be issued a certificate of nomination in the 12953
manner set forth in section 3513.02 of the Revised Code. 12954

Declarations of candidacy and petitions, nominating 12955
petitions, and certificates of nomination for the office of clerk 12956
of the Cuyahoga Falls municipal court shall contain a designation 12957
of the term for which the candidate seeks election. At the 12958
following regular municipal election, all candidates for the 12959
office shall be submitted to the qualified electors of the 12960
territory of the court in the manner that is provided in section 12961
1901.07 of the Revised Code for the election of the judges of the 12962
court. The clerk so elected shall hold office for a term of six 12963
years, which term shall commence on the first day of January 12964
following the clerk's election and continue until the clerk's 12965
successor is elected and qualified. 12966

~~(h)~~(g) Except as otherwise provided in division (A)(1)~~(h)~~(g) 12967
of this section, in the Toledo municipal court, candidates for 12968
election to the office of clerk of the court shall be nominated by 12969
primary election. The primary election shall be held on the day 12970
specified in the charter of the city of Toledo for the nomination 12971
of municipal officers. Notwithstanding section 3513.257 of the 12972
Revised Code, the nominating petitions of independent candidates 12973
shall be signed by at least two hundred fifty qualified electors 12974

of the territory of the court. 12975

The candidates shall file a declaration of candidacy and 12976
petition, or a nominating petition, whichever is applicable, not 12977
later than four p.m. of the seventy-fifth day before the day of 12978
the primary election, in the form prescribed by section 3513.07 or 12979
3513.261 of the Revised Code. The declaration of candidacy and 12980
petition, or the nominating petition, shall conform to the 12981
applicable requirements of section 3513.05 or 3513.257 of the 12982
Revised Code. 12983

If no valid declaration of candidacy and petition is filed by 12984
any person for nomination as a candidate of a particular political 12985
party for election to the office of clerk of the Toledo municipal 12986
court, a primary election shall not be held for the purpose of 12987
nominating a candidate of that party for election to that office. 12988
If only one person files a valid declaration of candidacy and 12989
petition for nomination as a candidate of a particular political 12990
party for election to that office, a primary election shall not be 12991
held for the purpose of nominating a candidate of that party for 12992
election to that office, and the candidate shall be issued a 12993
certificate of nomination in the manner set forth in section 12994
3513.02 of the Revised Code. 12995

Declarations of candidacy and petitions, nominating 12996
petitions, and certificates of nomination for the office of clerk 12997
of the Toledo municipal court shall contain a designation of the 12998
term for which the candidate seeks election. At the following 12999
regular municipal election, all candidates for the office shall be 13000
submitted to the qualified electors of the territory of the court 13001
in the manner that is provided in section 1901.07 of the Revised 13002
Code for the election of the judges of the court. The clerk so 13003
elected shall hold office for a term of six years, which term 13004
shall commence on the first day of January following the clerk's 13005
election and continue until the clerk's successor is elected and 13006

qualified. 13007

(2)(a) Except for the Alliance, Auglaize county, Brown 13008
county, Columbiana county, Lorain, Massillon, and Youngstown 13009
municipal courts, in a municipal court for which the population of 13010
the territory is less than one hundred thousand ~~and in the Medina~~ 13011
~~municipal court~~, the clerk shall be appointed by the court, and 13012
the clerk shall hold office until the clerk's successor is 13013
appointed and qualified. 13014

(b) In the Alliance, Lorain, Massillon, and Youngstown 13015
municipal courts, the clerk shall be elected for a term of office 13016
as described in division (A)(1)(a) of this section. 13017

(c) In the Auglaize county and Brown county municipal courts, 13018
the clerks of courts of Auglaize county and Brown county shall be 13019
the clerks, respectively, of the Auglaize county and Brown county 13020
municipal courts and may appoint a chief deputy clerk for each 13021
branch that is established pursuant to section 1901.311 of the 13022
Revised Code, and assistant clerks as the judge of the court 13023
determines are necessary, all of whom shall receive the 13024
compensation that the legislative authority prescribes. The clerks 13025
of courts of Auglaize county and Brown county, acting as the 13026
clerks of the Auglaize county and Brown county municipal courts 13027
and assuming the duties of these offices, shall receive 13028
compensation payable from the county treasury in semimonthly 13029
installments at one-fourth the rate that is prescribed for the 13030
clerks of courts of common pleas as determined in accordance with 13031
the population of the county and the rates set forth in sections 13032
325.08 and 325.18 of the Revised Code. 13033

(d) In the Columbiana county municipal court, the clerk of 13034
courts of Columbiana county shall be the clerk of the municipal 13035
court, may appoint a chief deputy clerk for each branch office 13036
that is established pursuant to section 1901.311 of the Revised 13037

Code, and may appoint any assistant clerks that the judges of the
court determine are necessary. All of the chief deputy clerks and
assistant clerks shall receive the compensation that the
legislative authority prescribes. The clerk of courts of
Columbiana county, acting as the clerk of the Columbiana county
municipal court and assuming the duties of that office, 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.

(3) During the temporary absence of the clerk due to illness,
vacation, or other proper cause, the court may appoint a temporary
clerk, who shall be paid the same compensation, have the same
authority, and perform the same duties as the clerk.

(B) Except in the Hamilton county, ~~Medina~~, Portage county,
and Wayne county municipal courts, if a vacancy occurs in the
office of the clerk of the Alliance, Lorain, Massillon, or
Youngstown municipal court or occurs in the office of the clerk of
a municipal court for which the population of the territory equals
or exceeds one hundred thousand because the clerk ceases to hold
the office before the end of the clerk's term or because a
clerk-elect fails to take office, the vacancy shall be filled,
until a successor is elected and qualified, by a person chosen by
the residents of the territory of the court who are members of the
county central committee of the political party by which the last
occupant of that office or the clerk-elect was nominated. Not less
than five nor more than fifteen days after a vacancy occurs, those
members of that county central committee shall meet to make an
appointment to fill the vacancy. At least four days before the
date of the meeting, the chairperson or a secretary of the county
central committee shall notify each such member of that county

central committee by first class mail of the date, time, and place 13070
of the meeting and its purpose. A majority of all such members of 13071
that county central committee constitutes a quorum, and a majority 13072
of the quorum is required to make the appointment. If the office 13073
so vacated was occupied or was to be occupied by a person not 13074
nominated at a primary election, or if the appointment was not 13075
made by the committee members in accordance with this division, 13076
the court shall make an appointment to fill the vacancy. A 13077
successor shall be elected to fill the office for the unexpired 13078
term at the first municipal election that is held more than one 13079
hundred twenty days after the vacancy occurred. 13080

(C)(1) In a municipal court, other than the Auglaize county, 13081
the Brown county, the Columbiana county, and the Lorain municipal 13082
courts, for which the population of the territory is less than one 13083
hundred thousand ~~and in the Medina municipal court~~, the clerk of 13084
the municipal court shall receive the annual compensation that the 13085
presiding judge of the court prescribes, if the revenue of the 13086
court for the preceding calendar year, as certified by the auditor 13087
or chief fiscal officer of the municipal corporation in which the 13088
court is located or, in the case of a county-operated municipal 13089
court, the county auditor, is equal to or greater than the 13090
expenditures, including any debt charges, for the operation of the 13091
court payable under this chapter from the city treasury or, in the 13092
case of a county-operated municipal court, the county treasury for 13093
that calendar year, as also certified by the auditor or chief 13094
fiscal officer. If the revenue of a municipal court, other than 13095
the Auglaize county, the Brown county, the Columbiana county, and 13096
the Lorain municipal courts, for which the population of the 13097
territory is less than one hundred thousand ~~or the revenue of the~~ 13098
~~Medina municipal court~~ for the preceding calendar year as so 13099
certified is not equal to or greater than those expenditures for 13100
the operation of the court for that calendar year as so certified, 13101
the clerk of a municipal court shall receive the annual 13102

compensation that the legislative authority prescribes. As used in 13103
this division, "revenue" means the total of all costs and fees 13104
that are collected and paid to the city treasury or, in a 13105
county-operated municipal court, the county treasury by the clerk 13106
of the municipal court under division (F) of this section and all 13107
interest received and paid to the city treasury or, in a 13108
county-operated municipal court, the county treasury in relation 13109
to the costs and fees under division (G) of this section. 13110

(2) In a municipal court, other than the Hamilton county, 13111
~~Medina~~, Portage county, and Wayne county municipal courts, for 13112
which the population of the territory is one hundred thousand or 13113
more, and in the Lorain municipal court, the clerk of the 13114
municipal court shall receive annual compensation in a sum equal 13115
to eighty-five per cent of the salary of a judge of the court. 13116

(3) The compensation of a clerk described in division (C)(1) 13117
or (2) of this section is payable in semimonthly installments from 13118
the same sources and in the same manner as provided in section 13119
1901.11 of the Revised Code. 13120

(D) Before entering upon the duties of the clerk's office, 13121
the clerk of a municipal court shall give bond of not less than 13122
six thousand dollars to be determined by the judges of the court, 13123
conditioned upon the faithful performance of the clerk's duties. 13124

(E) The clerk of a municipal court may do all of the 13125
following: administer oaths, take affidavits, and issue executions 13126
upon any judgment rendered in the court, including a judgment for 13127
unpaid costs; issue, sign, and attach the seal of the court to all 13128
writs, process, subpoenas, and papers issuing out of the court; 13129
and approve all bonds, sureties, recognizances, and undertakings 13130
fixed by any judge of the court or by law. The clerk may refuse to 13131
accept for filing any pleading or paper submitted for filing by a 13132
person who has been found to be a vexatious litigator under 13133
section 2323.52 of the Revised Code and who has failed to obtain 13134

leave to proceed under that section. The clerk shall do all of the 13135
following: file and safely keep all journals, records, books, and 13136
papers belonging or appertaining to the court; record the 13137
proceedings of the court; perform all other duties that the judges 13138
of the court may prescribe; and keep a book showing all receipts 13139
and disbursements, which book shall be open for public inspection 13140
at all times. 13141

The clerk shall prepare and maintain a general index, a 13142
docket, and other records that the court, by rule, requires, all 13143
of which shall be the public records of the court. In the docket, 13144
the clerk shall enter, at the time of the commencement of an 13145
action, the names of the parties in full, the names of the 13146
counsel, and the nature of the proceedings. Under proper dates, 13147
the clerk shall note the filing of the complaint, issuing of 13148
summons or other process, returns, and any subsequent pleadings. 13149
The clerk also shall enter all reports, verdicts, orders, 13150
judgments, and proceedings of the court, clearly specifying the 13151
relief granted or orders made in each action. The court may order 13152
an extended record of any of the above to be made and entered, 13153
under the proper action heading, upon the docket at the request of 13154
any party to the case, the expense of which record may be taxed as 13155
costs in the case or may be required to be prepaid by the party 13156
demanding the record, upon order of the court. 13157

(F) The clerk of a municipal court shall receive, collect, 13158
and issue receipts for all costs, fees, fines, bail, and other 13159
moneys payable to the office or to any officer of the court. The 13160
clerk shall each month disburse to the proper persons or officers, 13161
and take receipts for, all costs, fees, fines, bail, and other 13162
moneys that the clerk collects. Subject to sections 3375.50 and 13163
4511.193 of the Revised Code and to any other section of the 13164
Revised Code that requires a specific manner of disbursement of 13165
any moneys received by a municipal court and except for the 13166

Hamilton county, Lawrence county, and Ottawa county municipal
courts, the clerk shall pay all fines received for violation of
municipal ordinances into the treasury of the municipal
corporation the ordinance of which was violated and shall pay all
fines received for violation of township resolutions adopted
pursuant to Chapter 504. of the Revised Code into the treasury of
the township the resolution of which was violated. Subject to
sections 1901.024 and 4511.193 of the Revised Code, in the
Hamilton county, Lawrence county, and Ottawa county municipal
courts, the clerk shall pay fifty per cent of the fines received
for violation of municipal ordinances and fifty per cent of the
fines received for violation of township resolutions adopted
pursuant to Chapter 504. of the Revised Code into the treasury of
the county. Subject to sections 3375.50, 3375.53, 4511.19, and
5503.04 of the Revised Code and to any other section of the
Revised Code that requires a specific manner of disbursement of
any moneys received by a municipal court, the clerk shall pay all
fines collected for the violation of state laws into the county
treasury. Except in a county-operated municipal court, the clerk
shall pay all costs and fees the disbursement of which is not
otherwise provided for in the Revised Code into the city treasury.
The clerk of a county-operated municipal court shall pay the costs
and fees the disbursement of which is not otherwise provided for
in the Revised Code into the county treasury. Moneys deposited as
security for costs shall be retained pending the litigation. The
clerk shall keep a separate account of all receipts and
disbursements in civil and criminal cases, which shall be a
permanent public record of the office. On the expiration of the
term of the clerk, the clerk shall deliver the records to the
clerk's successor. The clerk shall have other powers and duties as
are prescribed by rule or order of the court.

(G) All moneys paid into a municipal court shall be noted on

the record of the case in which they are paid and shall be 13199
deposited in a state or national bank, or a domestic savings and 13200
loan association, as defined in section 1151.01 of the Revised 13201
Code, that is selected by the clerk. Any interest received upon 13202
the deposits shall be paid into the city treasury, except that, in 13203
a county-operated municipal court, the interest shall be paid into 13204
the treasury of the county in which the court is located. 13205

On the first Monday in January of each year, the clerk shall 13206
make a list of the titles of all cases in the court that were 13207
finally determined more than one year past in which there remains 13208
unclaimed in the possession of the clerk any funds, or any part of 13209
a deposit for security of costs not consumed by the costs in the 13210
case. The clerk shall give notice of the moneys to the parties who 13211
are entitled to the moneys or to their attorneys of record. All 13212
the moneys remaining unclaimed on the first day of April of each 13213
year shall be paid by the clerk to the city treasurer, except 13214
that, in a county-operated municipal court, the moneys shall be 13215
paid to the treasurer of the county in which the court is located. 13216
The treasurer shall pay any part of the moneys at any time to the 13217
person who has the right to the moneys upon proper certification 13218
of the clerk. 13219

(H) Deputy clerks may be appointed by the clerk and shall 13220
receive the compensation, payable in semimonthly installments out 13221
of the city treasury, that the clerk may prescribe, except that 13222
the compensation of any deputy clerk of a county-operated 13223
municipal court shall be paid out of the treasury of the county in 13224
which the court is located. Each deputy clerk shall take an oath 13225
of office before entering upon the duties of the deputy clerk's 13226
office and, when so qualified, may perform the duties appertaining 13227
to the office of the clerk. The clerk may require any of the 13228
deputy clerks to give bond of not less than three thousand 13229
dollars, conditioned for the faithful performance of the deputy 13230

clerk's duties. 13231

(I) For the purposes of this section, whenever the population 13232
of the territory of a municipal court falls below one hundred 13233
thousand but not below ninety thousand, and the population of the 13234
territory prior to the most recent regular federal census exceeded 13235
one hundred thousand, the legislative authority of the municipal 13236
corporation may declare, by resolution, that the territory shall 13237
be considered to have a population of at least one hundred 13238
thousand. 13239

(J) The clerk or a deputy clerk shall be in attendance at all 13240
sessions of the municipal court, although not necessarily in the 13241
courtroom, and may administer oaths to witnesses and jurors and 13242
receive verdicts. 13243

Sec. 1907.24. (A) Subject to division (C) of this section, a 13244
county court shall fix and tax fees and costs as follows: 13245

(1) The county court shall require an advance deposit for the 13246
filing of any new civil action or proceeding when required by 13247
division (C) of this section and, in all other cases, shall 13248
establish a schedule of fees and costs to be taxed in any civil or 13249
criminal action or proceeding. 13250

(2) The county court by rule may require an advance deposit 13251
for the filing of a civil action or proceeding and publication 13252
fees as provided in section 2701.09 of the Revised Code. The court 13253
may waive an advance deposit requirement upon the presentation of 13254
an affidavit or other evidence that establishes that a party is 13255
unable to make the requisite deposit. 13256

(3) When a party demands a jury trial in a civil action or 13257
proceeding, the county court may require the party to make an 13258
advance deposit as fixed by rule of court, unless the court 13259
concludes, on the basis of an affidavit or other evidence 13260

presented by the party, that the party is unable to make the 13261
requisite deposit. If a jury is called, the county court shall tax 13262
the fees of a jury as costs. 13263

(4) In a civil or criminal action or proceeding, the county 13264
court shall fix the fees of witnesses in accordance with sections 13265
2335.06 and 2335.08 of the Revised Code. 13266

(5) A county court may tax as part of the costs in a trial of 13267
the cause, in an amount fixed by rule of court, a reasonable 13268
charge for driving, towing, carting, storing, keeping, and 13269
preserving motor vehicles and other personal property recovered or 13270
seized in a proceeding. 13271

(6) The court shall preserve chattel property seized under a 13272
writ or process issued by the court pending final disposition for 13273
the benefit of all interested persons. The court may place the 13274
chattel property in storage when necessary or proper for its 13275
preservation. The custodian of chattel property so stored shall 13276
not be required to part with the possession of the property until 13277
a reasonable charge, to be fixed by the court, is paid. 13278

(7) The county court, as it determines, may refund all 13279
deposits and advance payments of fees and costs, including those 13280
for jurors and summoning jurors, when they have been paid by the 13281
losing party. 13282

(8) The court may tax as part of costs charges for the 13283
publication of legal notices required by statute or order of 13284
court, as provided by section 7.13 of the Revised Code. 13285

(B)(1) The county court may determine that, for the efficient 13286
operation of the court, additional funds are necessary to acquire 13287
and pay for special projects of the court including, but not 13288
limited to, the acquisition of additional facilities or the 13289
rehabilitation of existing facilities, the acquisition of 13290
equipment, the hiring and training of staff, community service 13291

programs, mediation or dispute resolution services, the employment 13292
of magistrates, the training and education of judges, acting 13293
judges, and magistrates, and other related services. Upon that 13294
determination, the court by rule may charge a fee, in addition to 13295
all other court costs, on the filing of each criminal cause, civil 13296
action or proceeding, or judgment by confession. 13297

If the county court offers a special program or service in 13298
cases of a specific type, the county court by rule may assess an 13299
additional charge in a case of that type, over and above court 13300
costs, to cover the special program or service. The county court 13301
shall adjust the special assessment periodically, but not 13302
retroactively, so that the amount assessed in those cases does not 13303
exceed the actual cost of providing the service or program. 13304

All moneys collected under division (B) of this section shall 13305
be paid to the county treasurer for deposit into either a general 13306
special projects fund or a fund established for a specific special 13307
project. Moneys from a fund of that nature shall be disbursed upon 13308
an order of the court in an amount no greater than the actual cost 13309
to the court of a project. If a specific fund is terminated 13310
because of the discontinuance of a program or service established 13311
under division (B) of this section, the county court may order 13312
that moneys remaining in the fund be transferred to an account 13313
established under this division for a similar purpose. 13314

(2) As used in division (B) of this section: 13315

(a) "Criminal cause" means a charge alleging the violation of 13316
a statute or ordinance, or subsection of a statute or ordinance, 13317
that requires a separate finding of fact or a separate plea before 13318
disposition and of which the defendant may be found guilty, 13319
whether filed as part of a multiple charge on a single summons, 13320
citation, or complaint or as a separate charge on a single 13321
summons, citation, or complaint. "Criminal cause" does not include 13322

separate violations of the same statute or ordinance, or 13323
subsection of the same statute or ordinance, unless each charge is 13324
filed on a separate summons, citation, or complaint. 13325

(b) "Civil action or proceeding" means any civil litigation 13326
that must be determined by judgment entry. 13327

(C) Subject to division (E) of this section, the county court 13328
shall collect in all its divisions except the small claims 13329
division the sum of ~~fifteen~~ twenty-five dollars as additional 13330
filing fees in each new civil action or proceeding for the 13331
charitable public purpose of providing financial assistance to 13332
legal aid societies that operate within the state. Subject to 13333
division (E) of this section, the county court shall collect in 13334
its small claims division the sum of ~~seven~~ ten dollars as 13335
additional filing fees in each new civil action or proceeding for 13336
the charitable public purpose of providing financial assistance to 13337
legal aid societies that operate within the state. This division 13338
does not apply to any execution on a judgment, proceeding in aid 13339
of execution, or other post-judgment proceeding arising out of a 13340
civil action. The filing fees required to be collected under this 13341
division shall be in addition to any other court costs imposed in 13342
the action or proceeding and shall be collected at the time of the 13343
filing of the action or proceeding. The court shall not waive the 13344
payment of the additional filing fees in a new civil action or 13345
proceeding unless the court waives the advanced payment of all 13346
filing fees in the action or proceeding. All such moneys collected 13347
during a month shall be transmitted on or before the twentieth day 13348
of the following month by the clerk of the court to the treasurer 13349
of state in a manner prescribed by the treasurer of state or by 13350
the Ohio legal assistance foundation. The moneys then shall be 13351
deposited by the treasurer of state to the credit of the legal aid 13352
fund established under section 120.52 of the Revised Code. 13353

The court may retain up to one per cent of the moneys it 13354

collects under this division to cover administrative costs, 13355
including the hiring of any additional personnel necessary to 13356
implement this division. 13357

(D) The county court shall establish by rule a schedule of 13358
fees for miscellaneous services performed by the county court or 13359
any of its judges in accordance with law. If judges of the court 13360
of common pleas perform similar services, the fees prescribed in 13361
the schedule shall not exceed the fees for those services 13362
prescribed by the court of common pleas. 13363

(E) Under the circumstances described in sections 2969.21 to 13364
2969.27 of the Revised Code, the clerk of the county court shall 13365
charge the fees and perform the other duties specified in those 13366
sections. 13367

Sec. 2113.041. (A) The administrator of the estate recovery 13368
program established pursuant to section 5111.11 of the Revised 13369
Code may present an affidavit to a financial institution 13370
requesting that the financial institution release account proceeds 13371
to recover the cost of services correctly provided to a medicaid 13372
recipient who is subject to the estate recovery program. The 13373
affidavit shall include all of the following information: 13374

(1) The name of the decedent; 13375

(2) The name of any person who gave notice that the decedent 13376
was a medicaid recipient and that person's relationship to the 13377
decedent; 13378

(3) The name of the financial institution; 13379

(4) The account number; 13380

(5) A description of the claim for estate recovery; 13381

(6) The amount of funds to be recovered. 13382

(B) A financial institution may release account proceeds to 13383

the administrator of the estate recovery program if all of the following apply: 13384
13385

(1) The decedent held an account at the financial institution that was in the decedent's name only. 13386
13387

(2) No estate has been, and it is reasonable to assume that no estate will be, opened for the decedent. 13388
13389

(3) The decedent has no outstanding debts known to the administrator of the estate recovery program. 13390
13391

(4) The financial institution has received no objections or has determined that no valid objections to release of proceeds have been received. 13392
13393
13394

(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. 13395
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Sec. 2151.031. As used in this chapter, an "abused child" includes any child who: 13402
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(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 order to find that the child is an abused child; 13404
13405
13406
13407
13408

(B) Is endangered as defined in section 2919.22 of the Revised Code, except that the court need not find that any person has been convicted under that section in order to find that the child is an abused child; 13409
13410
13411
13412

(C) Exhibits evidence of any physical or mental injury or death, inflicted other than by accidental means, or an injury or death which is at variance with the history given of it. Except as provided in division (D) of this section, a child exhibiting evidence of corporal punishment or other physical disciplinary measure by a parent, guardian, custodian, person having custody or control, or person in loco parentis of a child is not an abused child under this division if the measure is not prohibited under section 2919.22 of the Revised Code.

(D) Because of the acts of ~~his~~ the child's parents, guardian, or custodian, suffers physical or mental injury that harms or threatens to harm the child's health or welfare;i

(E) Is subjected to out-of-home care child abuse;i

(F) Is exposed to methamphetamine or to an ephedrine product, phenylpropanolamine product, or pseudoephedrine product in violation of division (A)(7) of section 2919.22 of the Revised Code, to conduct in violation of section 2925.04 of the Revised Code that involves the manufacture of methamphetamine, or to conduct in violation of division (A)(1) of section 2925.041 of the Revised Code, except that the court need not find that any person has been convicted under the specified section in order to find that the child is an abused child.

Sec. 2151.352. A child, ~~or~~ the child's parents, or guardian, or any other person in loco parentis of ~~such~~ the child is entitled to representation by legal counsel at all stages of the proceedings under this chapter or Chapter 2152. of the Revised Code ~~and if. If~~, as an indigent person, ~~any such person~~ a party is unable to employ counsel, the party is entitled to have counsel provided for the person pursuant to Chapter 120. of the Revised Code except in civil matters in which the juvenile court is exercising jurisdiction pursuant to division (A)(2), (3), (9),

(10), (11), (12), or (13); (B)(2), (3), (4), (5), or (6); (C); 13444
(D); or (F)(1) or (2) of section 2151.23 of the Revised Code. If a 13445
party appears without counsel, the court shall ascertain whether 13446
the party knows of the party's right to counsel and of the party's 13447
right to be provided with counsel if the party is an indigent 13448
person. The court may continue the case to enable a party to 13449
obtain counsel ~~or~~, to be represented by the county public defender 13450
or the joint county public defender ~~and shall provide,~~ or to be 13451
appointed counsel upon request pursuant to Chapter 120. of the 13452
Revised Code. Counsel must be provided for a child not represented 13453
by the child's parent, guardian, or custodian. If the interests of 13454
two or more such parties conflict, separate counsel shall be 13455
provided for each of them. 13456

Section 2935.14 of the Revised Code applies to any child 13457
taken into custody. The parents, custodian, or guardian of such 13458
child, and any attorney at law representing them or the child, 13459
shall be entitled to visit such child at any reasonable time, be 13460
present at any hearing involving the child, and be given 13461
reasonable notice of such hearing. 13462

Any report or part thereof concerning such child, which is 13463
used in the hearing and is pertinent thereto, shall for good cause 13464
shown be made available to any attorney at law representing such 13465
child and to any attorney at law representing the parents, 13466
custodian, or guardian of such child, upon written request prior 13467
to any hearing involving such child. 13468

Sec. 2151.416. (A) Each agency that is required by section 13469
2151.412 of the Revised Code to prepare a case plan for a child 13470
shall complete a semiannual administrative review of the case plan 13471
no later than six months after the earlier of the date on which 13472
the complaint in the case was filed or the child was first placed 13473
in shelter care. After the first administrative review, the agency 13474

shall complete semiannual administrative reviews no later than 13475
every six months. If the court issues an order pursuant to section 13476
2151.414 or 2151.415 of the Revised Code, the agency shall 13477
complete an administrative review no later than six months after 13478
the court's order and continue to complete administrative reviews 13479
no later than every six months after the first review, except that 13480
the court hearing held pursuant to section 2151.417 of the Revised 13481
Code may take the place of any administrative review that would 13482
otherwise be held at the time of the court hearing. When 13483
conducting a review, the child's health and safety shall be the 13484
paramount concern. 13485

(B) Each administrative review required by division (A) of 13486
this section shall be conducted by a review panel of at least 13487
three persons, including, but not limited to, both of the 13488
following: 13489

(1) A caseworker with day-to-day responsibility for, or 13490
familiarity with, the management of the child's case plan; 13491

(2) A person who is not responsible for the management of the 13492
child's case plan or for the delivery of services to the child or 13493
the parents, guardian, or custodian of the child. 13494

(C) Each semiannual administrative review shall include, but 13495
not be limited to, a joint meeting by the review panel with the 13496
parents, guardian, or custodian of the child, the guardian ad 13497
litem of the child, and the child's foster care provider and shall 13498
include an opportunity for those persons to submit any written 13499
materials to be included in the case record of the child. If a 13500
parent, guardian, custodian, guardian ad litem, or foster care 13501
provider of the child cannot be located after reasonable efforts 13502
to do so or declines to participate in the administrative review 13503
after being contacted, the agency does not have to include them in 13504
the joint meeting. 13505

(D) The agency shall prepare a written summary of the 13506
semiannual administrative review that shall include, but not be 13507
limited to, all of the following: 13508

(1) A conclusion regarding the safety and appropriateness of 13509
the child's foster care placement; 13510

(2) The extent of the compliance with the case plan of all 13511
parties; 13512

(3) The extent of progress that has been made toward 13513
alleviating the circumstances that required the agency to assume 13514
temporary custody of the child; 13515

(4) An estimated date by which the child may be returned to 13516
and safely maintained in the child's home or placed for adoption 13517
or legal custody; 13518

(5) An updated case plan that includes any changes that the 13519
agency is proposing in the case plan; 13520

(6) The recommendation of the agency as to which agency or 13521
person should be given custodial rights over the child for the 13522
six-month period after the administrative review; 13523

(7) The names of all persons who participated in the 13524
administrative review. 13525

(E) The agency shall file the summary with the court no later 13526
than seven days after the completion of the administrative review. 13527
If the agency proposes a change to the case plan as a result of 13528
the administrative review, the agency shall file the proposed 13529
change with the court at the time it files the summary. The agency 13530
shall give notice of the summary and proposed change in writing 13531
before the end of the next day after filing them to all parties 13532
and the child's guardian ad litem. All parties and the guardian ad 13533
litem shall have seven days after the date the notice is sent to 13534
object to and request a hearing on the proposed change. 13535

(1) If the court receives a timely request for a hearing, the court shall schedule a hearing pursuant to section 2151.417 of the Revised Code to be held not later than thirty days after the court receives the request. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. The agency may implement the proposed change after the hearing, if the court approves it. The agency shall not implement the proposed change unless it is approved by the court.

(2) If the court does not receive a timely request for a hearing, the court may approve the proposed change without a hearing. If the court approves the proposed change without a hearing, it shall journalize the case plan with the change not later than fourteen days after the change is filed with the court. If the court does not approve the proposed change to the case plan, it shall schedule a review hearing to be held pursuant to section 2151.417 of the Revised Code no later than thirty days after the expiration of the fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the guardian ad litem of the child. If, despite the requirements of this division and division (D) of section 2151.417 of the Revised Code, the court neither approves and journalizes the proposed change nor conducts a hearing, the agency may implement the proposed change not earlier than fifteen days after it is submitted to the court.

(F) The director of job and family services may adopt rules pursuant to Chapter 119. of the Revised Code for procedures and standard forms for conducting administrative reviews pursuant to this section.

(G) The juvenile court that receives the written summary of the administrative review, upon determining, either from the written summary, case plan, or otherwise, that the custody or care arrangement is not in the best interest of the child, may

terminate the custody of an agency and place the child in the
custody of another institution or association certified by the
department of job and family services under section 5103.03 of the
Revised Code.

(H) The department of job and family services shall report
annually to the public and to the general assembly on the results
of the review of case plans of each agency ~~and on the results of~~
~~the summaries submitted to the department under section 3107.10 of~~
~~the Revised Code.~~ The annual report shall include any information
that is required by the department, including, but not limited to,
all of the following:

(1) A statistical analysis of the administrative reviews
conducted pursuant to this section and section 2151.417 of the
Revised Code;

(2) The number of children in temporary or permanent custody
for whom an administrative review was conducted, the number of
children whose custody status changed during the period, the
number of children whose residential placement changed during the
period, and the number of residential placement changes for each
child during the period;

(3) An analysis of the utilization of public social services
by agencies and parents or guardians, and the utilization of the
adoption listing service of the department pursuant to section
5103.154 of the Revised Code;

~~(4) A compilation and analysis of data submitted to the
department under section 3107.10 of the Revised Code.~~

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 13598
employment as a person responsible for a child's care in 13599
out-of-home care, except that section 3319.39 of the Revised Code 13600
shall apply instead of this section if the out-of-home care entity 13601
is a public school, educational service center, or chartered 13602
nonpublic school. 13603

(2) The administrative director of an agency, or attorney, 13604
who arranges an adoption for a prospective adoptive parent shall 13605
request the superintendent of BCII to conduct a criminal records 13606
check with respect to that prospective adoptive parent and all 13607
persons eighteen years of age or older who reside with the 13608
prospective adoptive parent. 13609

(3) Before a recommending agency submits a recommendation to 13610
the department of job and family services on whether the 13611
department should issue a certificate to a foster home under 13612
section 5103.03 of the Revised Code, the administrative director 13613
of the agency shall request that the superintendent of BCII 13614
conduct a criminal records check with respect to the prospective 13615
foster caregiver and all other persons eighteen years of age or 13616
older who reside with the foster caregiver. 13617

(4) The executive director of a public children services 13618
agency that receives an application under section 5101.802 of the 13619
Revised Code for the kinship caregiver subsidy program shall 13620
request that the superintendent of BCII conduct a criminal records 13621
check with respect to the kinship caregiver and all other persons 13622
eighteen years of age or older who reside with the kinship 13623
caregiver. 13624

(B) If a person subject to a criminal records check does not 13625
present proof that the person has been a resident of this state 13626
for the five-year period immediately prior to the date upon which 13627
the criminal records check is requested or does not provide 13628
evidence that within that five-year period the superintendent of 13629

BCII has requested information about the person from the federal 13630
bureau of investigation in a criminal records check, the 13631
appointing or hiring officer, administrative or executive 13632
director, or attorney shall request that the superintendent of 13633
BCII obtain information from the federal bureau of investigation 13634
as a part of the criminal records check. If the person subject to 13635
the criminal records check presents proof that the person has been 13636
a resident of this state for that five-year period, the officer, 13637
director, or attorney may request that the superintendent of BCII 13638
include information from the federal bureau of investigation in 13639
the criminal records check. 13640

An appointing or hiring officer, administrative or executive 13641
director, or attorney required by division (A) of this section to 13642
request a criminal records check shall provide to each person 13643
subject to a criminal records check a copy of the form prescribed 13644
pursuant to division (C)(1) of section 109.572 of the Revised Code 13645
and a standard impression sheet to obtain fingerprint impressions 13646
prescribed pursuant to division (C)(2) of section 109.572 of the 13647
Revised Code, obtain the completed form and impression sheet from 13648
the person, and forward the completed form and impression sheet to 13649
the superintendent of BCII at the time the criminal records check 13650
is requested. 13651

Any person subject to a criminal records check who receives 13652
pursuant to this division a copy of the form prescribed pursuant 13653
to division (C)(1) of section 109.572 of the Revised Code and a 13654
copy of an impression sheet prescribed pursuant to division (C)(2) 13655
of that section and who is requested to complete the form and 13656
provide a set of fingerprint impressions shall complete the form 13657
or provide all the information necessary to complete the form and 13658
shall provide the impression sheet with the impressions of the 13659
person's fingerprints. If a person subject to a criminal records 13660
check, upon request, fails to provide the information necessary to 13661

complete the form or fails to provide impressions of the person's 13662
fingerprints, the appointing or hiring officer shall not appoint 13663
or employ the person as a person responsible for a child's care in 13664
out-of-home care, a probate court may not issue a final decree of 13665
adoption or an interlocutory order of adoption making the person 13666
an adoptive parent, ~~and~~ the department of job and family services 13667
shall not issue a certificate authorizing the prospective foster 13668
caregiver to operate a foster home, and the public children 13669
services agency shall deny the application for the kinship 13670
caregiver subsidy program. 13671

(C)(1) No appointing or hiring officer shall appoint or 13672
employ a person as a person responsible for a child's care in 13673
out-of-home care, the department of job and family services shall 13674
not issue a certificate under section 5103.03 of the Revised Code 13675
authorizing a prospective foster caregiver to operate a foster 13676
home, no public children services agency shall approve an 13677
application for the kinship caregiver subsidy program, and no 13678
probate court shall issue a final decree of adoption or an 13679
interlocutory order of adoption making a person an adoptive parent 13680
if the person or, in the case of a prospective foster caregiver 13681
~~or,~~ prospective adoptive parent, or kinship caregiver, any person 13682
eighteen years of age or older who resides with the prospective 13683
foster caregiver ~~or,~~ prospective adoptive parent, or kinship 13684
caregiver previously has been convicted of or pleaded guilty to 13685
any of the following, unless the person meets rehabilitation 13686
standards established in rules adopted under division (F) of this 13687
section: 13688

(a) A violation of section 2903.01, 2903.02, 2903.03, 13689
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 13690
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 13691
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 13692
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 13693

2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 13694
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 13695
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a 13696
violation of section 2905.04 of the Revised Code as it existed 13697
prior to July 1, 1996, a violation of section 2919.23 of the 13698
Revised Code that would have been a violation of section 2905.04 13699
of the Revised Code as it existed prior to July 1, 1996, had the 13700
violation been committed prior to that date, a violation of 13701
section 2925.11 of the Revised Code that is not a minor drug 13702
possession offense, or felonious sexual penetration in violation 13703
of former section 2907.12 of the Revised Code; 13704

(b) A violation of an existing or former law of this state, 13705
any other state, or the United States that is substantially 13706
equivalent to any of the offenses described in division (C)(1)(a) 13707
of this section. 13708

(2) The appointing or hiring officer may appoint or employ a 13709
person as a person responsible for a child's care in out-of-home 13710
care conditionally until the criminal records check required by 13711
this section is completed and the officer receives the results of 13712
the criminal records check. If the results of the criminal records 13713
check indicate that, pursuant to division (C)(1) of this section, 13714
the person subject to the criminal records check does not qualify 13715
for appointment or employment, the officer shall release the 13716
person from appointment or employment. 13717

(D) The appointing or hiring officer, administrative or 13718
executive director, or attorney shall pay to the bureau of 13719
criminal identification and investigation the fee prescribed 13720
pursuant to division (C)(3) of section 109.572 of the Revised Code 13721
for each criminal records check conducted in accordance with that 13722
section upon a request pursuant to division (A) of this section. 13723
The officer, director, or attorney may charge the person subject 13724
to the criminal records check a fee for the costs the officer, 13725

director, or attorney incurs in obtaining the criminal records 13726
check. A fee charged under this division shall not exceed the 13727
amount of fees the officer, director, or attorney pays for the 13728
criminal records check. If a fee is charged under this division, 13729
the officer, director, or attorney shall notify the person who is 13730
the applicant at the time of the person's initial application for 13731
appointment or employment, an adoption to be arranged, ~~or~~ a 13732
certificate to operate a foster home, or the kinship caregiver 13733
subsidy program of the amount of the fee and that, unless the fee 13734
is paid, the person who is the applicant will not be considered 13735
for appointment or employment or as an adoptive parent or foster 13736
caregiver or will have the application for the kinship caregiver 13737
subsidy program denied. 13738

(E) The report of any criminal records check conducted by the 13739
bureau of criminal identification and investigation in accordance 13740
with section 109.572 of the Revised Code and pursuant to a request 13741
made under division (A) of this section is not a public record for 13742
the purposes of section 149.43 of the Revised Code and shall not 13743
be made available to any person other than the person who is the 13744
subject of the criminal records check or the person's 13745
representative; the appointing or hiring officer, administrative 13746
or executive director, or attorney requesting the criminal records 13747
check or the officer's, director's, or attorney's representative; 13748
the department of job and family services or a county department 13749
of job and family services; a public children services agency; and 13750
any court, hearing officer, or other necessary individual involved 13751
in a case dealing with the denial of employment, a final decree of 13752
adoption or interlocutory order of adoption, ~~or~~ a foster home 13753
certificate, or the kinship caregiver subsidy program. 13754

(F) The director of job and family services shall adopt rules 13755
in accordance with Chapter 119. of the Revised Code to implement 13756
this section. The rules shall include rehabilitation standards a 13757

person who has been convicted of or pleaded guilty to an offense 13758
listed in division (C)(1) of this section must meet for an 13759
appointing or hiring officer to appoint or employ the person as a 13760
person responsible for a child's care in out-of-home care, a 13761
probate court to issue a final decree of adoption or interlocutory 13762
order of adoption making the person an adoptive parent, ~~or~~ the 13763
department to issue a certificate authorizing the prospective 13764
foster caregiver to operate a foster home, or a public children 13765
services agency to approve an application for the kinship 13766
caregiver subsidy program. 13767

(G) An appointing or hiring officer, administrative or 13768
executive director, or attorney required by division (A) of this 13769
section to request a criminal records check shall inform each 13770
person who is the applicant, at the time of the person's initial 13771
application for appointment or employment, an adoption to be 13772
arranged, ~~or~~ a foster home certificate, or the kinship caregiver 13773
subsidy program, that the person subject to the criminal records 13774
check is required to provide a set of impressions of the person's 13775
fingerprints and that a criminal records check is required to be 13776
conducted and satisfactorily completed in accordance with section 13777
109.572 of the Revised Code. 13778

(H) The department of job and family services may waive the 13779
requirement that a criminal records check based on fingerprints be 13780
conducted for an adult resident of a prospective adoptive or 13781
foster home or the home of a foster caregiver if the recommending 13782
agency documents to the department's satisfaction that the adult 13783
resident is physically unable to comply with the fingerprinting 13784
requirement and poses no danger to foster children or adoptive 13785
children who may be placed in the home. In such cases, the 13786
recommending or approving agency shall request that the bureau of 13787
criminal identification and investigation conduct a criminal 13788
records check using the person's name and social security number. 13789

(I) As used in this section:	13790
(1) "Children's hospital" means any of the following:	13791
(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;	13792 13793 13794 13795 13796
(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;	13797 13798 13799 13800 13801 13802 13803
(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.	13804 13805 13806 13807
(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	13808 13809
(3) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.	13810 13811
(4) <u>"Kinship caregiver subsidy program" means the program created under section 5101.802 of the Revised Code.</u>	13812 13813
(5) "Person responsible for a child's care in out-of-home 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.	13814 13815 13816 13817 13818 13819

~~(5)~~(6) "Person subject to a criminal records check" means the following: 13820
13821

(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; 13822
13823
13824

(b) A prospective adoptive parent; 13825

(c) A prospective foster caregiver; 13826

(d) A kinship caregiver who applies for the kinship caregiver subsidy program; 13827
13828

(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. 13829
13830
13831

~~(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. 13832
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13834
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~~(7)~~(8) "Superintendent of BCII" means the superintendent of the bureau of criminal identification and investigation. 13836
13837

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. 13838
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The board of county commissioners of each county that participates in a district detention facility may apply to the department of youth services for assistance in defraying the county's share of the cost of acquisition or construction of the 13845
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facility, as provided in section 5139.271 of the Revised Code. 13849
Application shall be made in accordance with rules adopted by the 13850
department. No county shall be reimbursed for expenses incurred in 13851
the acquisition or construction of a district detention facility 13852
that serves a district having a population of less than one 13853
hundred thousand. 13854

(B)(1) The joint boards of county commissioners of district 13855
detention facilities shall defray all necessary expenses of the 13856
facility not paid from funds made available under section 5139.281 13857
of the Revised Code, through annual assessments of taxes, through 13858
gifts, or through other means. 13859

If any county withdraws from a district under division (D) of 13860
section 2152.41 of the Revised Code, it shall continue to have 13861
levied against its tax duplicate any tax levied by the district 13862
during the period in which the county was a member of the district 13863
for current operating expenses, permanent improvements, or the 13864
retirement of bonded indebtedness. The levy shall continue to be a 13865
levy against the tax duplicate of the county until the time that 13866
it expires or is renewed. 13867

(2) The current expenses of maintaining the facility not paid 13868
from funds made available under section 5139.281 of the Revised 13869
Code or division (C) of this section, and the cost of ordinary 13870
repairs to the facility, shall be paid by each county in 13871
accordance with one of the following methods as approved by the 13872
joint board of county commissioners: 13873

(a) In proportion to the number of children from that county 13874
who are maintained in the facility during the year; 13875

(b) By a levy submitted by the joint board of county 13876
commissioners under division (A) of section 5705.19 of the Revised 13877
Code and approved by the electors of the district; 13878

(c) In proportion to the taxable property of each county, as 13879

shown by its tax duplicate; 13880

(d) In any ~~combination of the methods for payment described~~ 13881
~~in division (B)(2)(a), (b), or (c) of this section~~ other method 13882
agreed upon by unanimous vote of the joint board of county 13883
commissioners. 13884

(C) When any person donates or bequeaths any real or personal 13885
property to a county or district detention facility, the juvenile 13886
court or the trustees of the facility may accept and use the gift, 13887
consistent with the best interest of the institution and the 13888
conditions of the gift. 13889

Sec. 2152.74. (A) As used in this section, "DNA analysis" and 13890
"DNA specimen" have the same meanings as in section 109.573 of the 13891
Revised Code. 13892

(B)(1) A child who is adjudicated a delinquent child for 13893
committing an act listed in division (D) of this section and who 13894
is committed to the custody of the department of youth services, 13895
placed in a detention facility or district detention facility 13896
pursuant to division (A)(3) of section 2152.19 of the Revised 13897
Code, or placed in a school, camp, institution, or other facility 13898
for delinquent children described in division (A)(2) of section 13899
2152.19 of the Revised Code shall submit to a DNA specimen 13900
collection procedure administered by the director of youth 13901
services if committed to the department or by the chief 13902
administrative officer of the detention facility, district 13903
detention facility, school, camp, institution, or other facility 13904
for delinquent children to which the child was committed or in 13905
which the child was placed. If the court commits the child to the 13906
department of youth services, the director of youth services shall 13907
cause the DNA specimen to be collected from the child during the 13908
intake process at an institution operated by or under the control 13909
of the department. If the court commits the child to or places the 13910

child in a detention facility, district detention facility, 13911
school, camp, institution, or other facility for delinquent 13912
children, the chief administrative officer of the detention 13913
facility, district detention facility, school, camp, institution, 13914
or facility to which the child is committed or in which the child 13915
is placed shall cause the DNA specimen to be collected from the 13916
child during the intake process for the detention facility, 13917
district detention facility, school, camp, institution, or 13918
facility. In accordance with division (C) of this section, the 13919
director or the chief administrative officer shall cause the DNA 13920
specimen to be forwarded to the bureau of criminal identification 13921
and investigation no later than fifteen days after the date of the 13922
collection of the DNA specimen. The DNA specimen shall be 13923
collected from the child in accordance with division (C) of this 13924
section. 13925

(2) If a child is adjudicated a delinquent child for 13926
committing an act listed in division (D) of this section, is 13927
committed to or placed in the department of youth services, a 13928
detention facility or district detention facility, or a school, 13929
camp, institution, or other facility for delinquent children, and 13930
does not submit to a DNA specimen collection procedure pursuant to 13931
division (B)(1) of this section, prior to the child's release from 13932
the custody of the department of youth services, from the custody 13933
of the detention facility or district detention facility, or from 13934
the custody of the school, camp, institution, or facility, the 13935
child shall submit to, and the director of youth services or the 13936
chief administrator of the detention facility, district detention 13937
facility, school, camp, institution, or facility to which the 13938
child is committed or in which the child was placed shall 13939
administer, a DNA specimen collection procedure at the institution 13940
operated by or under the control of the department of youth 13941
services or at the detention facility, district detention 13942

facility, school, camp, institution, or facility to which the 13943
child is committed or in which the child was placed. In accordance 13944
with division (C) of this section, the director or the chief 13945
administrative officer shall cause the DNA specimen to be 13946
forwarded to the bureau of criminal identification and 13947
investigation no later than fifteen days after the date of the 13948
collection of the DNA specimen. The DNA specimen shall be 13949
collected in accordance with division (C) of this section. 13950

(C) If the DNA specimen is collected by withdrawing blood 13951
from the child or a similarly invasive procedure, a physician, 13952
registered nurse, licensed practical nurse, duly licensed clinical 13953
laboratory technician, or other qualified medical practitioner 13954
shall collect in a medically approved manner the DNA specimen 13955
required to be collected pursuant to division (B) of this section. 13956
If the DNA specimen is collected by swabbing for buccal cells or a 13957
similarly noninvasive procedure, this section does not require 13958
that the DNA specimen be collected by a qualified medical 13959
practitioner of that nature. No later than fifteen days after the 13960
date of the collection of the DNA specimen, the director of youth 13961
services or the chief administrative officer of the detention 13962
facility, district detention facility, school, camp, institution, 13963
or other facility for delinquent children to which the child is 13964
committed or in which the child was placed shall cause the DNA 13965
specimen to be forwarded to the bureau of criminal identification 13966
and investigation in accordance with procedures established by the 13967
superintendent of the bureau under division (H) of section 109.573 13968
of the Revised Code. The bureau shall provide the specimen vials, 13969
mailing tubes, labels, postage, and instruction needed for the 13970
collection and forwarding of the DNA specimen to the bureau. 13971

(D) The director of youth services and the chief 13972
administrative officer of a detention facility, district detention 13973
facility, school, camp, institution, or other facility for 13974

delinquent children shall cause a DNA specimen to be collected in 13975
accordance with divisions (B) and (C) of this section from each 13976
child in its custody who is adjudicated a delinquent child for 13977
committing any of the following acts: 13978

(1) A violation of section 2903.01, 2903.02, 2903.11, 13979
2905.01, 2907.02, 2907.03, 2907.05, 2911.01, 2911.02, 2911.11, or 13980
2911.12 of the Revised Code; 13981

(2) A violation of section 2907.12 of the Revised Code as it 13982
existed prior to September 3, 1996; 13983

(3) An attempt to commit a violation of section 2903.01, 13984
2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code or to 13985
commit a violation of section 2907.12 of the Revised Code as it 13986
existed prior to September 3, 1996; 13987

(4) A violation of any law that arose out of the same facts 13988
and circumstances and same act as did a charge against the child 13989
of a violation of section 2903.01, 2903.02, 2905.01, 2907.02, 13990
2907.03, 2907.05, or 2911.11 of the Revised Code that previously 13991
was dismissed or amended or as did a charge against the child of a 13992
violation of section 2907.12 of the Revised Code as it existed 13993
prior to September 3, 1996, that previously was dismissed or 13994
amended; 13995

(5) A violation of section 2905.02 or 2919.23 of the Revised 13996
Code that would have been a violation of section 2905.04 of the 13997
Revised Code as it existed prior to July 1, 1996, had the 13998
violation been committed prior to that date; 13999

(6) A felony violation of any law that arose out of the same 14000
facts and circumstances and same act as did a charge against the 14001
child of a violation of section 2903.11, 2911.01, 2911.02, or 14002
2911.12 of the Revised Code that previously was dismissed or 14003
amended; 14004

(7) A violation of section 2923.01 of the Revised Code 14005
involving a conspiracy to commit a violation of section 2903.01, 14006
2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the 14007
Revised Code; 14008

(8) A violation of section 2923.03 of the Revised Code 14009
involving complicity in committing a violation of section 2903.01, 14010
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 14011
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 14012
violation of section 2907.12 of the Revised Code as it existed 14013
prior to September 3, 1996. 14014

(E) The director of youth services and the chief 14015
administrative officer of a detention facility, district detention 14016
facility, school, camp, institution, or other facility for 14017
delinquent children is not required to comply with this section in 14018
relation to the following acts until the superintendent of the 14019
bureau of criminal identification and investigation gives agencies 14020
in the juvenile justice system, as defined in section ~~181.51~~ 14021
5502.61 of the Revised Code, in the state official notification 14022
that the state DNA laboratory is prepared to accept DNA specimens 14023
of that nature: 14024

(1) A violation of section 2903.11, 2911.01, 2911.02, or 14025
2911.12 of the Revised Code; 14026

(2) An attempt to commit a violation of section 2903.01 or 14027
2903.02 of the Revised Code; 14028

(3) A felony violation of any law that arose out of the same 14029
facts and circumstances and same act as did a charge against the 14030
child of a violation of section 2903.11, 2911.01, 2911.02, or 14031
2911.12 of the Revised Code that previously was dismissed or 14032
amended; 14033

(4) A violation of section 2923.01 of the Revised Code 14034
involving a conspiracy to commit a violation of section 2903.01, 14035

2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code; 14036
14037

(5) A violation of section 2923.03 of the Revised Code 14038
involving complicity in committing a violation of section 2903.01, 14039
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 14040
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 14041
violation of section 2907.12 of the Revised Code as it existed 14042
prior to September 3, 1996. 14043

Sec. 2303.201. (A)(1) The court of common pleas of any county 14044
may determine that for the efficient operation of the court 14045
additional funds are required to computerize the court, to make 14046
available computerized legal research services, or to do both. 14047
Upon making a determination that additional funds are required for 14048
either or both of those purposes, the court shall authorize and 14049
direct the clerk of the court of common pleas to charge one 14050
additional fee, not to exceed three dollars, on the filing of each 14051
cause of action or appeal under divisions (A), (Q), and (U) of 14052
section 2303.20 of the Revised Code. 14053

(2) All fees collected under division (A)(1) of this section 14054
shall be paid to the county treasurer. The treasurer shall place 14055
the funds from the fees in a separate fund to be disbursed, upon 14056
an order of the court, in an amount not greater than the actual 14057
cost to the court of procuring and maintaining computerization of 14058
the court, computerized legal research services, or both. 14059

(3) If the court determines that the funds in the fund 14060
described in division (A)(2) of this section are more than 14061
sufficient to satisfy the purpose for which the additional fee 14062
described in division (A)(1) of this section was imposed, the 14063
court may declare a surplus in the fund and expend those surplus 14064
funds for other appropriate technological expenses of the court. 14065

(B)(1) The court of common pleas of any county may determine 14066
that, for the efficient operation of the court, additional funds 14067
are required to computerize the office of the clerk of the court 14068
of common pleas and, upon that determination, authorize and direct 14069
the clerk of the court of common pleas to charge an additional 14070
fee, not to exceed ten dollars, on the filing of each cause of 14071
action or appeal, on the filing, docketing, and endorsing of each 14072
certificate of judgment, or on the docketing and indexing of each 14073
aid in execution or petition to vacate, revive, or modify a 14074
judgment under divisions (A), (P), (Q), (T), and (U) of section 14075
2303.20 of the Revised Code. Subject to division (B)(2) of this 14076
section, all moneys collected under division (B)(1) of this 14077
section shall be paid to the county treasurer to be disbursed, 14078
upon an order of the court of common pleas and subject to 14079
appropriation by the board of county commissioners, in an amount 14080
no greater than the actual cost to the court of procuring and 14081
maintaining computer systems for the office of the clerk of the 14082
court of common pleas. 14083

(2) If the court of common pleas of a county makes the 14084
determination described in division (B)(1) of this section, the 14085
board of county commissioners of that county may issue one or more 14086
general obligation bonds for the purpose of procuring and 14087
maintaining the computer systems for the office of the clerk of 14088
the court of common pleas. In addition to the purposes stated in 14089
division (B)(1) of this section for which the moneys collected 14090
under that division may be expended, the moneys additionally may 14091
be expended to pay debt charges on and financing costs related to 14092
any general obligation bonds issued pursuant to division (B)(2) of 14093
this section as they become due. General obligation bonds issued 14094
pursuant to division (B)(2) of this section are Chapter 133. 14095
securities. 14096

(C) The court of common pleas shall collect the sum of 14097

~~fifteen~~ twenty-five dollars as additional filing fees in each new 14098
civil action or proceeding for the charitable public purpose of 14099
providing financial assistance to legal aid societies that operate 14100
within the state. This division does not apply to proceedings 14101
concerning annulments, dissolutions of marriage, divorces, legal 14102
separation, spousal support, marital property or separate property 14103
distribution, support, or other domestic relations matters; to a 14104
juvenile division of a court of common pleas; to a probate 14105
division of a court of common pleas, except that the additional 14106
filing fees shall apply to name change, guardianship, ~~and~~ 14107
adoption, and decedents' estate proceedings; or to an execution on 14108
a judgment, proceeding in aid of execution, or other post-judgment 14109
proceeding arising out of a civil action. The filing fees required 14110
to be collected under this division shall be in addition to any 14111
other filing fees imposed in the action or proceeding and shall be 14112
collected at the time of the filing of the action or proceeding. 14113
The court shall not waive the payment of the additional filing 14114
fees in a new civil action or proceeding unless the court waives 14115
the advanced payment of all filing fees in the action or 14116
proceeding. All such moneys collected during a month shall be 14117
transmitted on or before the twentieth day of the following month 14118
by the clerk of the court to the treasurer of state in a manner 14119
prescribed by the treasurer of state or by the Ohio legal 14120
assistance foundation. The moneys then shall be deposited by the 14121
treasurer of state to the credit of the legal aid fund established 14122
under section 120.52 of the Revised Code. 14123

The court may retain up to one per cent of the moneys it 14124
collects under this division to cover administrative costs, 14125
including the hiring of any additional personnel necessary to 14126
implement this division. 14127

(D) On and after the thirtieth day after December 9, 1994, 14128
the court of common pleas shall collect the sum of thirty-two 14129

dollars as additional filing fees in each new action or proceeding 14130
for annulment, divorce, or dissolution of marriage for the purpose 14131
of funding shelters for victims of domestic violence pursuant to 14132
sections 3113.35 to 3113.39 of the Revised Code. The filing fees 14133
required to be collected under this division shall be in addition 14134
to any other filing fees imposed in the action or proceeding and 14135
shall be collected at the time of the filing of the action or 14136
proceeding. The court shall not waive the payment of the 14137
additional filing fees in a new action or proceeding for 14138
annulment, divorce, or dissolution of marriage unless the court 14139
waives the advanced payment of all filing fees in the action or 14140
proceeding. On or before the twentieth day of each month, all 14141
moneys collected during the immediately preceding month pursuant 14142
to this division shall be deposited by the clerk of the court into 14143
the county treasury in the special fund used for deposit of 14144
additional marriage license fees as described in section 3113.34 14145
of the Revised Code. Upon their deposit into the fund, the moneys 14146
shall be retained in the fund and expended only as described in 14147
section 3113.34 of the Revised Code. 14148

(E)(1) The court of common pleas may determine that, for the 14149
efficient operation of the court, additional funds are necessary 14150
to acquire and pay for special projects of the court, including, 14151
but not limited to, the acquisition of additional facilities or 14152
the rehabilitation of existing facilities, the acquisition of 14153
equipment, the hiring and training of staff, community service 14154
programs, mediation or dispute resolution services, the employment 14155
of magistrates, the training and education of judges, acting 14156
judges, and magistrates, and other related services. Upon that 14157
determination, the court by rule may charge a fee, in addition to 14158
all other court costs, on the filing of each criminal cause, civil 14159
action or proceeding, or judgment by confession. 14160

If the court of common pleas offers a special program or 14161

service in cases of a specific type, the court by rule may assess 14162
an additional charge in a case of that type, over and above court 14163
costs, to cover the special program or service. The court shall 14164
adjust the special assessment periodically, but not retroactively, 14165
so that the amount assessed in those cases does not exceed the 14166
actual cost of providing the service or program. 14167

All moneys collected under division (E) of this section shall 14168
be paid to the county treasurer for deposit into either a general 14169
special projects fund or a fund established for a specific special 14170
project. Moneys from a fund of that nature shall be disbursed upon 14171
an order of the court in an amount no greater than the actual cost 14172
to the court of a project. If a specific fund is terminated 14173
because of the discontinuance of a program or service established 14174
under division (E) of this section, the court may order that 14175
moneys remaining in the fund be transferred to an account 14176
established under this division for a similar purpose. 14177

(2) As used in division (E) of this section: 14178

(a) "Criminal cause" means a charge alleging the violation of 14179
a statute or ordinance, or subsection of a statute or ordinance, 14180
that requires a separate finding of fact or a separate plea before 14181
disposition and of which the defendant may be found guilty, 14182
whether filed as part of a multiple charge on a single summons, 14183
citation, or complaint or as a separate charge on a single 14184
summons, citation, or complaint. "Criminal cause" does not include 14185
separate violations of the same statute or ordinance, or 14186
subsection of the same statute or ordinance, unless each charge is 14187
filed on a separate summons, citation, or complaint. 14188

(b) "Civil action or proceeding" means any civil litigation 14189
that must be determined by judgment entry. 14190

Sec. 2305.234. (A) As used in this section: 14191

(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.	14192 14193 14194
(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a dental operation or any derivative claim for relief that arises out of a dental operation.	14195 14196 14197 14198
(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.	14199 14200
(4) "Health care facility or location" means a hospital, clinic, ambulatory surgical facility, office of a health care professional or associated group of health care professionals, training institution for health care professionals, or any other place where medical, dental, or other health-related diagnosis, care, or treatment is provided to a person.	14201 14202 14203 14204 14205 14206
(5) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:	14207 14208 14209
(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;	14210 14211 14212
(b) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code and individuals who hold a certificate of authority issued under that chapter that authorizes the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;	14213 14214 14215 14216 14217 14218
(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	14219 14220
(d) Dentists and dental hygienists licensed under Chapter	14221

4715. of the Revised Code;	14222
(e) Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants licensed under Chapter 4755. of the Revised Code;	14223 14224 14225
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	14226 14227
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	14228 14229
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	14230 14231
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	14232 14233
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	14234 14235
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;	14236 14237 14238 14239
(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;	14240 14241
(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code.	14242 14243
(6) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.	14244 14245 14246 14247 14248 14249 14250

- (7) "Indigent and uninsured person" means a person who meets 14251
all of the following requirements: 14252
- (a) The person's income is not greater than two hundred per 14253
cent of the current poverty line as defined by the United States 14254
office of management and budget and revised in accordance with 14255
section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 14256
95 Stat. 511, 42 U.S.C. 9902, as amended. 14257
- (b) The person is not eligible to receive medical assistance 14258
under Chapter 5111., ~~disability medical assistance under Chapter~~ 14259
~~5115.~~ of the Revised Code, or assistance under any other 14260
governmental health care program. 14261
- (c) Either of the following applies: 14262
- (i) The person is not a policyholder, certificate holder, 14263
insured, contract holder, subscriber, enrollee, member, 14264
beneficiary, or other covered individual under a health insurance 14265
or health care policy, contract, or plan. 14266
- (ii) The person is a policyholder, certificate holder, 14267
insured, contract holder, subscriber, enrollee, member, 14268
beneficiary, or other covered individual under a health insurance 14269
or health care policy, contract, or plan, but the insurer, policy, 14270
contract, or plan denies coverage or is the subject of insolvency 14271
or bankruptcy proceedings in any jurisdiction. 14272
- (8) "Nonprofit health care referral organization" means an 14273
entity that is not operated for profit and refers patients to, or 14274
arranges for the provision of, health-related diagnosis, care, or 14275
treatment by a health care professional or health care worker. 14276
- (9) "Operation" means any procedure that involves cutting or 14277
otherwise infiltrating human tissue by mechanical means, including 14278
surgery, laser surgery, ionizing radiation, therapeutic 14279
ultrasound, or the removal of intraocular foreign bodies. 14280

"Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection.
"Operation" does not include routine dental restorative procedures, the scaling of teeth, or extractions of teeth that are not impacted.

(10) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities.

(11) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any health care facility or location, any nonprofit health care referral organization, or any other person or government entity.

(12) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(13) "Deep sedation" means a drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation, a patient's ability to independently maintain ventilatory function may be impaired, a patient may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate, and cardiovascular function is usually maintained.

(14) "General anesthesia" means a drug-induced loss of consciousness during which a patient is not arousable, even by painful stimulation, the ability to independently maintain

ventilatory function is often impaired, a patient often requires 14312
assistance in maintaining a patent airway, positive pressure 14313
ventilation may be required because of depressed spontaneous 14314
ventilation or drug-induced depression of neuromuscular function, 14315
and cardiovascular function may be impaired. 14316

(B)(1) Subject to divisions (F) and (G)(3) of this section, a 14317
health care professional who is a volunteer and complies with 14318
division (B)(2) of this section is not liable in damages to any 14319
person or government entity in a tort or other civil action, 14320
including an action on a medical, dental, chiropractic, 14321
optometric, or other health-related claim, for injury, death, or 14322
loss to person or property that allegedly arises from an action or 14323
omission of the volunteer in the provision to an indigent and 14324
uninsured person of medical, dental, or other health-related 14325
diagnosis, care, or treatment, including the provision of samples 14326
of medicine and other medical products, unless the action or 14327
omission constitutes willful or wanton misconduct. 14328

(2) To qualify for the immunity described in division (B)(1) 14329
of this section, a health care professional shall do all of the 14330
following prior to providing diagnosis, care, or treatment: 14331

(a) Determine, in good faith, that the indigent and uninsured 14332
person is mentally capable of giving informed consent to the 14333
provision of the diagnosis, care, or treatment and is not subject 14334
to duress or under undue influence; 14335

(b) Inform the person of the provisions of this section, 14336
including notifying the person that, by giving informed consent to 14337
the provision of the diagnosis, care, or treatment, the person 14338
cannot hold the health care professional liable for damages in a 14339
tort or other civil action, including an action on a medical, 14340
dental, chiropractic, optometric, or other health-related claim, 14341
unless the action or omission of the health care professional 14342

constitutes willful or wanton misconduct; 14343

(c) Obtain the informed consent of the person and a written 14344
waiver, signed by the person or by another individual on behalf of 14345
and in the presence of the person, that states that the person is 14346
mentally competent to give informed consent and, without being 14347
subject to duress or under undue influence, gives informed consent 14348
to the provision of the diagnosis, care, or treatment subject to 14349
the provisions of this section. A written waiver under division 14350
(B)(2)(c) of this section shall state clearly and in conspicuous 14351
type that the person or other individual who signs the waiver is 14352
signing it with full knowledge that, by giving informed consent to 14353
the provision of the diagnosis, care, or treatment, the person 14354
cannot bring a tort or other civil action, including an action on 14355
a medical, dental, chiropractic, optometric, or other 14356
health-related claim, against the health care professional unless 14357
the action or omission of the health care professional constitutes 14358
willful or wanton misconduct. 14359

(3) A physician or podiatrist who is not covered by medical 14360
malpractice insurance, but complies with division (B)(2) of this 14361
section, is not required to comply with division (A) of section 14362
4731.143 of the Revised Code. 14363

(C) Subject to divisions (F) and (G)(3) of this section, 14364
health care workers who are volunteers are not liable in damages 14365
to any person or government entity in a tort or other civil 14366
action, including an action upon a medical, dental, chiropractic, 14367
optometric, or other health-related claim, for injury, death, or 14368
loss to person or property that allegedly arises from an action or 14369
omission of the health care worker in the provision to an indigent 14370
and uninsured person of medical, dental, or other health-related 14371
diagnosis, care, or treatment, unless the action or omission 14372
constitutes willful or wanton misconduct. 14373

(D) Subject to divisions (F) and (G)(3) of this section, a nonprofit health care referral organization is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the nonprofit health care referral organization in referring indigent and uninsured persons to, or arranging for the provision of, medical, dental, or other health-related diagnosis, care, or treatment by a health care professional described in division (B)(1) of this section or a health care worker described in division (C) of this section, unless the action or omission constitutes willful or wanton misconduct.

(E) Subject to divisions (F) and (G)(3) of this section and to the extent that the registration requirements of section 3701.071 of the Revised Code apply, a health care facility or location associated with a health care professional described in division (B)(1) of this section, a health care worker described in division (C) of this section, or a nonprofit health care referral organization described in division (D) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care professional or worker or nonprofit health care referral organization relative to the medical, dental, or other health-related diagnosis, care, or treatment provided to an indigent and uninsured person on behalf of or at the health care facility or location, unless the action or omission constitutes willful or wanton misconduct.

(F)(1) Except as provided in division (F)(2) of this section,

the immunities provided by divisions (B), (C), (D), and (E) of
this section are not available to a health care professional,
health care worker, nonprofit health care referral organization,
or health care facility or location if, at the time of an alleged
injury, death, or loss to person or property, the health care
professionals or health care workers involved are providing one of
the following:

(a) Any medical, dental, or other health-related diagnosis,
care, or treatment pursuant to a community service work order
entered by a court under division (B) of section 2951.02 of the
Revised Code or imposed by a court as a community control
sanction;

(b) Performance of an operation to which any one of the
following applies:

(i) The operation requires the administration of deep
sedation or general anesthesia.

(ii) The operation is a procedure that is not typically
performed in an office.

(iii) The individual involved is a health care professional,
and the operation is beyond the scope of practice or the
education, training, and competence, as applicable, of the health
care professional.

(c) Delivery of a baby or any other purposeful termination of
a human pregnancy.

(2) Division (F)(1) of this section does not apply when a
health care professional or health care worker provides medical,
dental, or other health-related diagnosis, care, or treatment that
is necessary to preserve the life of a person in a medical
emergency.

(G)(1) This section does not create a new cause of action or

substantive legal right against a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location. 14436
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(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location may be entitled in connection with the provision of emergency or other medical, dental, or other health-related diagnosis, care, or treatment. 14439
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(3) This section does not grant an immunity from tort or other civil liability to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location for actions that are outside the scope of authority of health care professionals or health care workers. 14446
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(4) This section does not affect any legal responsibility of a health care professional, health care worker, or nonprofit health care referral organization to comply with any applicable law of this state or rule of an agency of this state. 14451
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(5) This section does not affect any legal responsibility of a health care facility or location to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety. 14455
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Sec. 2329.66. (A) Every person who is domiciled in this state may hold property exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order, as follows: 14461
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(1)(a) In the case of a judgment or order regarding money owed for health care services rendered or health care supplies 14464
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provided to the person or a dependent of the person, one parcel or 14466
item of real or personal property that the person or a dependent 14467
of the person uses as a residence. Division (A)(1)(a) of this 14468
section does not preclude, affect, or invalidate the creation 14469
under this chapter of a judgment lien upon the exempted property 14470
but only delays the enforcement of the lien until the property is 14471
sold or otherwise transferred by the owner or in accordance with 14472
other applicable laws to a person or entity other than the 14473
surviving spouse or surviving minor children of the judgment 14474
debtor. Every person who is domiciled in this state may hold 14475
exempt from a judgment lien created pursuant to division (A)(1)(a) 14476
of this section the person's interest, not to exceed five thousand 14477
dollars, in the exempted property. 14478

(b) In the case of all other judgments and orders, the 14479
person's interest, not to exceed five thousand dollars, in one 14480
parcel or item of real or personal property that the person or a 14481
dependent of the person uses as a residence. 14482

(2) The person's interest, not to exceed one thousand 14483
dollars, in one motor vehicle; 14484

(3) The person's interest, not to exceed two hundred dollars 14485
in any particular item, in wearing apparel, beds, and bedding, and 14486
the person's interest, not to exceed three hundred dollars in each 14487
item, in one cooking unit and one refrigerator or other food 14488
preservation unit; 14489

(4)(a) The person's interest, not to exceed four hundred 14490
dollars, in cash on hand, money due and payable, money to become 14491
due within ninety days, tax refunds, and money on deposit with a 14492
bank, savings and loan association, credit union, public utility, 14493
landlord, or other person. Division (A)(4)(a) of this section 14494
applies only in bankruptcy proceedings. This exemption may include 14495
the portion of personal earnings that is not exempt under division 14496

(A)(13) of this section. 14497

(b) Subject to division (A)(4)(d) of this section, the 14498
person's interest, not to exceed two hundred dollars in any 14499
particular item, in household furnishings, household goods, 14500
appliances, books, animals, crops, musical instruments, firearms, 14501
and hunting and fishing equipment, that are held primarily for the 14502
personal, family, or household use of the person; 14503

(c) Subject to division (A)(4)(d) of this section, the 14504
person's interest in one or more items of jewelry, not to exceed 14505
four hundred dollars in one item of jewelry and not to exceed two 14506
hundred dollars in every other item of jewelry; 14507

(d) Divisions (A)(4)(b) and (c) of this section do not 14508
include items of personal property listed in division (A)(3) of 14509
this section. 14510

If the person does not claim an exemption under division 14511
(A)(1) of this section, the total exemption claimed under division 14512
(A)(4)(b) of this section shall be added to the total exemption 14513
claimed under division (A)(4)(c) of this section, and the total 14514
shall not exceed two thousand dollars. If the person claims an 14515
exemption under division (A)(1) of this section, the total 14516
exemption claimed under division (A)(4)(b) of this section shall 14517
be added to the total exemption claimed under division (A)(4)(c) 14518
of this section, and the total shall not exceed one thousand five 14519
hundred dollars. 14520

(5) The person's interest, not to exceed an aggregate of 14521
seven hundred fifty dollars, in all implements, professional 14522
books, or tools of the person's profession, trade, or business, 14523
including agriculture; 14524

(6)(a) The person's interest in a beneficiary fund set apart, 14525
appropriated, or paid by a benevolent association or society, as 14526
exempted by section 2329.63 of the Revised Code; 14527

(b) The person's interest in contracts of life or endowment insurance or annuities, as exempted by section 3911.10 of the Revised Code;	14528 14529 14530
(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;	14531 14532 14533
(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;	14534 14535 14536 14537
(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.	14538 14539 14540 14541
(7) The person's professionally prescribed or medically necessary health aids;	14542 14543
(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;	14544 14545 14546
(9) The person's interest in the following:	14547
(a) Moneys paid or payable for living maintenance or rights, as exempted by section 3304.19 of the Revised Code;	14548 14549
(b) Workers' compensation, as exempted by section 4123.67 of the Revised Code;	14550 14551
(c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code;	14552 14553
(d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code;	14554 14555
(e) Benefits and services under the prevention, retention,	14556

and contingency program, as exempted by section 5108.08 of the Revised Code; 14557
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(f) Disability financial assistance payments, as exempted by section 5115.06 of the Revised Code. 14559
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(10)(a) Except in cases in which the person was convicted of or pleaded guilty to a violation of section 2921.41 of the Revised Code and in which an order for the withholding of restitution from payments was issued under division (C)(2)(b) of that section or in cases in which an order for withholding was issued under section 2907.15 of the Revised Code, and only to the extent provided in the order, and except as provided in sections 3105.171, 3105.63, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to a pension, benefit, annuity, retirement allowance, or accumulated contributions, the person's right to a participant account in any deferred compensation program offered by the Ohio public employees deferred compensation board, a government unit, or a municipal corporation, or the person's other accrued or accruing rights, as exempted by section 145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of the Revised Code, and the person's right to benefits from the Ohio public safety officers death benefit fund; 14561
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(b) Except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to receive a payment under any pension, annuity, or similar plan or contract, not including a payment from a stock bonus or profit-sharing plan or a payment included in division (A)(6)(b) or (10)(a) of this section, on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the person and any of the person's dependents, except if all the following apply: 14578
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(i) The plan or contract was established by or under the 14587

auspices of an insider that employed the person at the time the
person's rights under the plan or contract arose.

(ii) The payment is on account of age or length of service.

(iii) The plan or contract is not qualified under the
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as
amended.

(c) 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 individual retirement
account, individual retirement annuity, "Roth IRA," or education
individual retirement account that provides benefits by reason of
illness, disability, death, or age, to the extent that the assets,
payments, or benefits described in division (A)(10)(c) of this
section are attributable to any of the following:

(i) Contributions of the person that were less than or equal
to the applicable limits on deductible contributions to an
individual retirement account or individual retirement annuity in
the year that the contributions were made, whether or not the
person was eligible to deduct the contributions on the person's
federal tax return for the year in which the contributions were
made;

(ii) Contributions of the person that were less than or equal
to the applicable limits on contributions to a Roth IRA or
education individual retirement account in the year that the
contributions were made;

(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. 14619

(d) Except for any portion of the assets that were deposited 14620
for the purpose of evading the payment of any debt and except as 14621
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 14622
3123.06 of the Revised Code, the person's right in the assets held 14623
in, or to receive any payment under, any Keogh or "H.R. 10" plan 14624
that provides benefits by reason of illness, disability, death, or 14625
age, to the extent reasonably necessary for the support of the 14626
person and any of the person's dependents. 14627

(11) The person's right to receive spousal support, child 14628
support, an allowance, or other maintenance to the extent 14629
reasonably necessary for the support of the person and any of the 14630
person's dependents; 14631

(12) The person's right to receive, or moneys received during 14632
the preceding twelve calendar months from, any of the following: 14633

(a) An award of reparations under sections 2743.51 to 2743.72 14634
of the Revised Code, to the extent exempted by division (D) of 14635
section 2743.66 of the Revised Code; 14636

(b) A payment on account of the wrongful death of an 14637
individual of whom the person was a dependent on the date of the 14638
individual's death, to the extent reasonably necessary for the 14639
support of the person and any of the person's dependents; 14640

(c) Except in cases in which the person who receives the 14641
payment is an inmate, as defined in section 2969.21 of the Revised 14642
Code, and in which the payment resulted from a civil action or 14643
appeal against a government entity or employee, as defined in 14644
section 2969.21 of the Revised Code, a payment, not to exceed five 14645
thousand dollars, on account of personal bodily injury, not 14646
including pain and suffering or compensation for actual pecuniary 14647
loss, of the person or an individual for whom the person is a 14648
dependent; 14649

(d) A payment in compensation for loss of future earnings of the person or an individual of whom the person is or was a dependent, to the extent reasonably necessary for the support of the debtor and any of the debtor's dependents.

(13) Except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, personal earnings of the person owed to the person for services in an amount equal to the greater of the following amounts:

(a) If paid weekly, thirty times the current federal minimum hourly wage; if paid biweekly, sixty times the current federal minimum hourly wage; if paid semimonthly, sixty-five times the current federal minimum hourly wage; or if paid monthly, one hundred thirty times the current federal minimum hourly wage that is in effect at the time the earnings are payable, as prescribed by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 206(a)(1), as amended;

(b) Seventy-five per cent of the disposable earnings owed to the person.

(14) The person's right in specific partnership property, as exempted by division (B)(3) of section 1775.24 of the Revised Code;

(15) A seal and official register of a notary public, as exempted by section 147.04 of the Revised Code;

(16) The person's interest in a tuition ~~credit~~ unit or a payment under section 3334.09 of the Revised Code pursuant to a tuition ~~credit~~ payment contract, as exempted by section 3334.15 of the Revised Code;

(17) Any other property that is specifically exempted from execution, attachment, garnishment, or sale by federal statutes other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11

U.S.C.A. 101, as amended;	14680
(18) The person's interest, not to exceed four hundred dollars, in any property, except that division (A)(18) of this section applies only in bankruptcy proceedings.	14681 14682 14683
(B) As used in this section:	14684
(1) "Disposable earnings" means net earnings after the garnishee has made deductions required by law, excluding the deductions ordered pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code.	14685 14686 14687 14688
(2) "Insider" means:	14689
(a) If the person who claims an exemption is an individual, a relative of the individual, a relative of a general partner of the individual, a partnership in which the individual is a general partner, a general partner of the individual, or a corporation of which the individual is a director, officer, or in control;	14690 14691 14692 14693 14694
(b) If the person who claims an exemption is a corporation, a director or officer of the corporation; a person in control of the corporation; a partnership in which the corporation is a general partner; a general partner of the corporation; or a relative of a general partner, director, officer, or person in control of the corporation;	14695 14696 14697 14698 14699 14700
(c) If the person who claims an exemption is a partnership, a general partner in the partnership; a general partner of the partnership; a person in control of the partnership; a partnership in which the partnership is a general partner; or a relative in, a general partner of, or a person in control of the partnership;	14701 14702 14703 14704 14705
(d) An entity or person to which or whom any of the following applies:	14706 14707
(i) The entity directly or indirectly owns, controls, or holds with power to vote, twenty per cent or more of the	14708 14709

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.

(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.

(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.

(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.

(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;

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

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

(4) "Government unit" has the same meaning as in section
148.06 of the Revised Code.

(C) For purposes of this section, "interest" shall be
determined as follows:

(1) In bankruptcy proceedings, as of the date a petition is
filed with the bankruptcy court commencing a case under Title 11

of the United States Code; 14740

(2) In all cases other than bankruptcy proceedings, as of the 14741
date of an appraisal, if necessary under section 2329.68 of the 14742
Revised Code, or the issuance of a writ of execution. 14743

An interest, as determined under division (C)(1) or (2) of 14744
this section, shall not include the amount of any lien otherwise 14745
valid pursuant to section 2329.661 of the Revised Code. 14746

Sec. 2744.05. Notwithstanding any other provisions of the 14747
Revised Code or rules of a court to the contrary, in an action 14748
against a political subdivision to recover damages for injury, 14749
death, or loss to person or property caused by an act or omission 14750
in connection with a governmental or proprietary function: 14751

(A) Punitive or exemplary damages shall not be awarded. 14752

(B)(1) If a claimant receives or is entitled to receive 14753
benefits for injuries or loss allegedly incurred from a policy or 14754
policies of insurance or any other source, the benefits shall be 14755
disclosed to the court, and the amount of the benefits shall be 14756
deducted from any award against a political subdivision recovered 14757
by that claimant. No insurer or other person is entitled to bring 14758
an action under a subrogation provision in an insurance or other 14759
contract against a political subdivision with respect to those 14760
benefits. 14761

The amount of the benefits shall be deducted from an award 14762
against a political subdivision under division (B)(1) of this 14763
section regardless of whether the claimant may be under an 14764
obligation to pay back the benefits upon recovery, in whole or in 14765
part, for the claim. A claimant whose benefits have been deducted 14766
from an award under division (B)(1) of this section is not 14767
considered fully compensated and shall not be required to 14768
reimburse a subrogated claim for benefits deducted from an award 14769

pursuant to division (B)(1) of this section. 14770

(2) Nothing in division (B)(1) of this section shall be 14771
construed to do either of the following: 14772

(a) Limit the rights of a beneficiary under a life insurance 14773
policy or the rights of sureties under fidelity or surety bonds; 14774

(b) Prohibit the department of job and family services from 14775
recovering from the political subdivision, pursuant to section 14776
5101.58 of the Revised Code, the cost of medical assistance 14777
benefits provided under Chapter 5107.7 or 5111.7, ~~or 5115.~~ of the 14778
Revised Code. 14779

(C)(1) There shall not be any limitation on compensatory 14780
damages that represent the actual loss of the person who is 14781
awarded the damages. However, except in wrongful death actions 14782
brought pursuant to Chapter 2125. of the Revised Code, damages 14783
that arise from the same cause of action, transaction or 14784
occurrence, or series of transactions or occurrences and that do 14785
not represent the actual loss of the person who is awarded the 14786
damages shall not exceed two hundred fifty thousand dollars in 14787
favor of any one person. The limitation on damages that do not 14788
represent the actual loss of the person who is awarded the damages 14789
provided in this division does not apply to court costs that are 14790
awarded to a plaintiff, or to interest on a judgment rendered in 14791
favor of a plaintiff, in an action against a political 14792
subdivision. 14793

(2) As used in this division, "the actual loss of the person 14794
who is awarded the damages" includes all of the following: 14795

(a) All wages, salaries, or other compensation lost by the 14796
person injured as a result of the injury, including wages, 14797
salaries, or other compensation lost as of the date of a judgment 14798
and future expected lost earnings of the person injured; 14799

(b) All expenditures of the person injured or another person 14800
on behalf of the person injured for medical care or treatment, for 14801
rehabilitation services, or for other care, treatment, services, 14802
products, or accommodations that were necessary because of the 14803
injury; 14804

(c) All expenditures to be incurred in the future, as 14805
determined by the court, by the person injured or another person 14806
on behalf of the person injured for medical care or treatment, for 14807
rehabilitation services, or for other care, treatment, services, 14808
products, or accommodations that will be necessary because of the 14809
injury; 14810

(d) All expenditures of a person whose property was injured 14811
or destroyed or of another person on behalf of the person whose 14812
property was injured or destroyed in order to repair or replace 14813
the property that was injured or destroyed; 14814

(e) All expenditures of the person injured or of the person 14815
whose property was injured or destroyed or of another person on 14816
behalf of the person injured or of the person whose property was 14817
injured or destroyed in relation to the actual preparation or 14818
presentation of the claim involved; 14819

(f) Any other expenditures of the person injured or of the 14820
person whose property was injured or destroyed or of another 14821
person on behalf of the person injured or of the person whose 14822
property was injured or destroyed that the court determines 14823
represent an actual loss experienced because of the personal or 14824
property injury or property loss. 14825

"The actual loss of the person who is awarded the damages" 14826
does not include any fees paid or owed to an attorney for any 14827
services rendered in relation to a personal or property injury or 14828
property loss, and does not include any damages awarded for pain 14829
and suffering, for the loss of society, consortium, companionship, 14830

care, assistance, attention, protection, advice, guidance, 14831
counsel, instruction, training, or education of the person 14832
injured, for mental anguish, or for any other intangible loss. 14833

Sec. 2901.07. (A) As used in this section: 14834

(1) "DNA analysis" and "DNA specimen" have the same meanings 14835
as in section 109.573 of the Revised Code. 14836

(2) "Jail" and "community-based correctional facility" have 14837
the same meanings as in section 2929.01 of the Revised Code. 14838

(3) "Post-release control" has the same meaning as in section 14839
2967.01 of the Revised Code. 14840

(B)(1) A person who is convicted of or pleads guilty to a 14841
felony offense listed in division (D) of this section and who is 14842
sentenced to a prison term or to a community residential sanction 14843
in a jail or community-based correctional facility pursuant to 14844
section 2929.16 of the Revised Code, and a person who is convicted 14845
of or pleads guilty to a misdemeanor offense listed in division 14846
(D) of this section and who is sentenced to a term of imprisonment 14847
shall submit to a DNA specimen collection procedure administered 14848
by the director of rehabilitation and correction or the chief 14849
administrative officer of the jail or other detention facility in 14850
which the person is serving the term of imprisonment. If the 14851
person serves the prison term in a state correctional institution, 14852
the director of rehabilitation and correction shall cause the DNA 14853
specimen to be collected from the person during the intake process 14854
at the reception facility designated by the director. If the 14855
person serves the community residential sanction or term of 14856
imprisonment in a jail, a community-based correctional facility, 14857
or another county, multicounty, municipal, municipal-county, or 14858
multicounty-municipal detention facility, the chief administrative 14859
officer of the jail, community-based correctional facility, or 14860

detention facility shall cause the DNA specimen to be collected 14861
from the person during the intake process at the jail, 14862
community-based correctional facility, or detention facility. In 14863
accordance with division (C) of this section, the director or the 14864
chief administrative officer shall cause the DNA specimen to be 14865
forwarded to the bureau of criminal identification and 14866
investigation no later than fifteen days after the date of the 14867
collection of the DNA specimen. The DNA specimen shall be 14868
collected in accordance with division (C) of this section. 14869

(2) If a person is convicted of or pleads guilty to an 14870
offense listed in division (D) of this section, is serving a 14871
prison term, community residential sanction, or term of 14872
imprisonment for that offense, and does not provide a DNA specimen 14873
pursuant to division (B)(1) of this section, prior to the person's 14874
release from the prison term, community residential sanction, or 14875
imprisonment, the person shall submit to, and the director of 14876
rehabilitation and correction or the chief administrative officer 14877
of the jail, community-based correctional facility, or detention 14878
facility in which the person is serving the prison term, community 14879
residential sanction, or term of imprisonment shall administer, a 14880
DNA specimen collection procedure at the state correctional 14881
institution, jail, community-based correctional facility, or 14882
detention facility in which the person is serving the prison term, 14883
community residential sanction, or term of imprisonment. In 14884
accordance with division (C) of this section, the director or the 14885
chief administrative officer shall cause the DNA specimen to be 14886
forwarded to the bureau of criminal identification and 14887
investigation no later than fifteen days after the date of the 14888
collection of the DNA specimen. The DNA specimen shall be 14889
collected in accordance with division (C) of this section. 14890

(3) If a person sentenced to a term of imprisonment or 14891
serving a prison term or community residential sanction for 14892

committing an offense listed in division (D) of this section is on 14893
probation, is released on parole, under transitional control, or 14894
on another type of release, or is on post-release control, if the 14895
person is under the supervision of a probation department or the 14896
adult parole authority, if the person is sent to jail or is 14897
returned to a jail, community-based correctional facility, or 14898
state correctional institution for a violation of the terms and 14899
conditions of the probation, parole, transitional control, other 14900
release, or post-release control, if the person was or will be 14901
serving a term of imprisonment, prison term, or community 14902
residential sanction for committing an offense listed in division 14903
(D) of this section, and if the person did not provide a DNA 14904
specimen pursuant to division (B)(1) or (2) of this section, the 14905
person shall submit to, and the director of rehabilitation and 14906
correction or the chief administrative officer of the jail or 14907
community-based correctional facility shall administer, a DNA 14908
specimen collection procedure at the jail, community-based 14909
correctional facility, or state correctional institution in which 14910
the person is serving the term of imprisonment, prison term, or 14911
community residential sanction. In accordance with division (C) of 14912
this section, the director or the chief administrative officer 14913
shall cause the DNA specimen to be forwarded to the bureau of 14914
criminal identification and investigation no later than fifteen 14915
days after the date of the collection of the DNA specimen. The DNA 14916
specimen shall be collected from the person in accordance with 14917
division (C) of this section. 14918

(C) If the DNA specimen is collected by withdrawing blood 14919
from the person or a similarly invasive procedure, a physician, 14920
registered nurse, licensed practical nurse, duly licensed clinical 14921
laboratory technician, or other qualified medical practitioner 14922
shall collect in a medically approved manner the DNA specimen 14923
required to be collected pursuant to division (B) of this section. 14924

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
rehabilitation and correction or the chief administrative officer
of the jail, community-based correctional facility, or other
county, multicounty, municipal, municipal-county, or
multicounty-municipal detention facility, in which the person is
serving the prison term, community residential sanction, or term
of imprisonment 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 instructions needed for the collection and
forwarding of the DNA specimen to the bureau.

(D) The director of rehabilitation and correction and the
chief administrative officer of the jail, community-based
correctional facility, or other county, multicounty, municipal,
municipal-county, or multicounty-municipal detention facility
shall cause a DNA specimen to be collected in accordance with
divisions (B) and (C) of this section from a person in its custody
who is convicted of or pleads guilty to any of the following
offenses:

(1) 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;

(2) A violation of section 2907.12 of the Revised Code as it
existed prior to September 3, 1996;

(3) An attempt to commit a violation of section 2903.01,

2903.02, 2907.02, 2907.03, 2907.04, or 2907.05 of the Revised Code 14956
or to commit a violation of section 2907.12 of the Revised Code as 14957
it existed prior to September 3, 1996; 14958

(4) A violation of any law that arose out of the same facts 14959
and circumstances and same act as did a charge against the person 14960
of a violation of section 2903.01, 2903.02, 2905.01, 2907.02, 14961
2907.03, 2907.04, 2907.05, or 2911.11 of the Revised Code that 14962
previously was dismissed or amended or as did a charge against the 14963
person of a violation of section 2907.12 of the Revised Code as it 14964
existed prior to September 3, 1996, that previously was dismissed 14965
or amended; 14966

(5) A violation of section 2905.02 or 2919.23 of the Revised 14967
Code that would have been a violation of section 2905.04 of the 14968
Revised Code as it existed prior to July 1, 1996, had it been 14969
committed prior to that date; 14970

(6) A sexually oriented offense or a child-victim oriented 14971
offense, both as defined in section 2950.01 of the Revised Code, 14972
if, in relation to that offense, the offender has been adjudicated 14973
a sexual predator or a child-victim predator, both as defined in 14974
section 2950.01 of the Revised Code; 14975

(7) A felony violation of any law that arose out of the same 14976
facts and circumstances and same act as did a charge against the 14977
person of a violation of section 2903.11, 2911.01, 2911.02, or 14978
2911.12 of the Revised Code that previously was dismissed or 14979
amended; 14980

(8) A conspiracy to commit a violation of section 2903.01, 14981
2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the 14982
Revised Code; 14983

(9) Complicity in committing a violation of section 2903.01, 14984
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 14985
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 14986

violation of section 2907.12 of the Revised Code as it existed 14987
prior to September 3, 1996. 14988

(E) The director of rehabilitation and correction or a chief 14989
administrative officer of a jail, community-based correctional 14990
facility, or other detention facility described in division (B) of 14991
this section in relation to the following offenses is not required 14992
to comply with this section until the superintendent of the bureau 14993
of criminal identification and investigation gives agencies in the 14994
criminal justice system, as defined in section ~~181.51~~ 5502.61 of 14995
the Revised Code, in the state official notification that the 14996
state DNA laboratory is prepared to accept DNA specimens of that 14997
nature: 14998

(1) A violation of section 2903.11, 2911.01, 2911.02, or 14999
2911.12 of the Revised Code; 15000

(2) An attempt to commit a violation of section 2903.01 or 15001
2903.02 of the Revised Code; 15002

(3) A felony violation of any law that arose out of the same 15003
facts and circumstances and same act as did a charge against the 15004
person of a violation of section 2903.11, 2911.01, 2911.02, or 15005
2911.12 of the Revised Code that previously was dismissed or 15006
amended; 15007

(4) A conspiracy to commit a violation of section 2903.01, 15008
2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the 15009
Revised Code; 15010

(5) Complicity in committing a violation of section 2903.01, 15011
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 15012
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 15013
violation of section 2907.12 of the Revised Code as it existed 15014
prior to September 3, 1996. 15015

Sec. 2913.40. (A) As used in this section: 15016

(1) "Statement or representation" means any oral, written, 15017
electronic, electronic impulse, or magnetic communication that is 15018
used to identify an item of goods or a service for which 15019
reimbursement may be made under the medical assistance program or 15020
that states income and expense and is or may be used to determine 15021
a rate of reimbursement under the medical assistance program. 15022

(2) "Medical assistance program" means the program 15023
established by the department of job and family services to 15024
provide medical assistance under section 5111.01 of the Revised 15025
Code and the medicaid program of Title XIX of the "Social Security 15026
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. 15027

(3) "Provider" means any person who has signed a provider 15028
agreement with the department of job and family services to 15029
provide goods or services pursuant to the medical assistance 15030
program or any person who has signed an agreement with a party to 15031
such a provider agreement under which the person agrees to provide 15032
goods or services that are reimbursable under the medical 15033
assistance program. 15034

(4) "Provider agreement" means an oral or written agreement 15035
between the department of job and family services and a person in 15036
which the person agrees to provide goods or services under the 15037
medical assistance program. 15038

(5) "Recipient" means any individual who receives goods or 15039
services from a provider under the medical assistance program. 15040

(6) "Records" means any medical, professional, financial, or 15041
business records relating to the treatment or care of any 15042
recipient, to goods or services provided to any recipient, or to 15043
rates paid for goods or services provided to any recipient and any 15044
records that are required by the rules of the director of job and 15045
family services to be kept for the medical assistance program. 15046

(B) No person shall knowingly make or cause to be made a 15047

false or misleading statement or representation for use in 15048
obtaining reimbursement from the medical assistance program. 15049

(C) No person, with purpose to commit fraud or knowing that 15050
the person is facilitating a fraud, shall do either of the 15051
following: 15052

(1) Contrary to the terms of the person's provider agreement, 15053
charge, solicit, accept, or receive for goods or services that the 15054
person provides under the medical assistance program any property, 15055
money, or other consideration in addition to the amount of 15056
reimbursement under the medical assistance program and the 15057
person's provider agreement for the goods or services and any 15058
deductibles or co-payments authorized by ~~rules adopted under~~ 15059
section 5111.0112 of the Revised Code or ~~by any~~ rules adopted 15060
pursuant to ~~that~~ section 5111.01, 5111.011, or 5111.02 of the 15061
Revised Code. 15062

(2) Solicit, offer, or receive any remuneration, other than 15063
any deductibles or co-payments authorized by section 5111.0112 of 15064
the Revised Code or rules adopted under section ~~5111.0112~~ 5111.01, 15065
5111.011, or 5111.02 of the Revised Code ~~or by any rules adopted~~ 15066
~~pursuant to that section~~, in cash or in kind, including, but not 15067
limited to, a kickback or rebate, in connection with the 15068
furnishing of goods or services for which whole or partial 15069
reimbursement is or may be made under the medical assistance 15070
program. 15071

(D) No person, having submitted a claim for or provided goods 15072
or services under the medical assistance program, shall do either 15073
of the following for a period of at least six years after a 15074
reimbursement pursuant to that claim, or a reimbursement for those 15075
goods or services, is received under the medical assistance 15076
program: 15077

(1) Knowingly alter, falsify, destroy, conceal, or remove any 15078

records that are necessary to fully disclose the nature of all 15079
goods or services for which the claim was submitted, or for which 15080
reimbursement was received, by the person; 15081

(2) Knowingly alter, falsify, destroy, conceal, or remove any 15082
records that are necessary to disclose fully all income and 15083
expenditures upon which rates of reimbursements were based for the 15084
person. 15085

(E) Whoever violates this section is guilty of medicaid 15086
fraud. Except as otherwise provided in this division, medicaid 15087
fraud is a misdemeanor of the first degree. If the value of 15088
property, services, or funds obtained in violation of this section 15089
is five hundred dollars or more and is less than five thousand 15090
dollars, medicaid fraud is a felony of the fifth degree. If the 15091
value of property, services, or funds obtained in violation of 15092
this section is five thousand dollars or more and is less than one 15093
hundred thousand dollars, medicaid fraud is a felony of the fourth 15094
degree. If the value of the property, services, or funds obtained 15095
in violation of this section is one hundred thousand dollars or 15096
more, medicaid fraud is a felony of the third degree. 15097

(F) Upon application of the governmental agency, office, or 15098
other entity that conducted the investigation and prosecution in a 15099
case under this section, the court shall order any person who is 15100
convicted of a violation of this section for receiving any 15101
reimbursement for furnishing goods or services under the medical 15102
assistance program to which the person is not entitled to pay to 15103
the applicant its cost of investigating and prosecuting the case. 15104
The costs of investigation and prosecution that a defendant is 15105
ordered to pay pursuant to this division shall be in addition to 15106
any other penalties for the receipt of that reimbursement that are 15107
provided in this section, section 5111.03 of the Revised Code, or 15108
any other provision of law. 15109

(G) The provisions of this section are not intended to be 15110
exclusive remedies and do not preclude the use of any other 15111
criminal or civil remedy for any act that is in violation of this 15112
section. 15113

Sec. 2919.22. (A) No person, who is the parent, guardian, 15114
custodian, person having custody or control, or person in loco 15115
parentis of a child under eighteen years of age or a mentally or 15116
physically handicapped child under twenty-one years of age, shall 15117
create a substantial risk to the health or safety of the child, by 15118
violating a duty of care, protection, or support. It is not a 15119
violation of a duty of care, protection, or support under this 15120
division when the parent, guardian, custodian, or person having 15121
custody or control of a child treats the physical or mental 15122
illness or defect of the child by spiritual means through prayer 15123
alone, in accordance with the tenets of a recognized religious 15124
body. 15125

(B) No person shall do any of the following to a child under 15126
eighteen years of age or a mentally or physically handicapped 15127
child under twenty-one years of age: 15128

(1) Abuse the child; 15129

(2) Torture or cruelly abuse the child; 15130

(3) Administer corporal punishment or other physical 15131
disciplinary measure, or physically restrain the child in a cruel 15132
manner or for a prolonged period, which punishment, discipline, or 15133
restraint is excessive under the circumstances and creates a 15134
substantial risk of serious physical harm to the child; 15135

(4) Repeatedly administer unwarranted disciplinary measures 15136
to the child, when there is a substantial risk that such conduct, 15137
if continued, will seriously impair or retard the child's mental 15138
health or development; 15139

(5) Entice, coerce, permit, encourage, compel, hire, employ, 15140
use, or allow the child to act, model, or in any other way 15141
participate in, or be photographed for, the production, 15142
presentation, dissemination, or advertisement of any material or 15143
performance that the offender knows or reasonably should know is 15144
obscene, is sexually oriented matter, or is nudity-oriented 15145
matter; 15146

(6) Allow the child to be on the same parcel of real property 15147
and within one hundred feet of, or, in the case of more than one 15148
housing unit on the same parcel of real property, in the same 15149
housing unit and within one hundred feet of, any act in violation 15150
of section 2925.04 or 2925.041 of the Revised Code when the person 15151
knows that the act is occurring, whether or not any person is 15152
prosecuted for or convicted of the violation of section 2925.04 or 15153
2925.041 of the Revised Code that is the basis of the violation of 15154
this division; 15155

(7) Possess or use methamphetamine in the presence of the 15156
child or possess in the presence of the child an ephedrine 15157
product, phenylpropanolamine product, pseudoephedrine product, or 15158
combination of those products in an amount in excess of six grams 15159
of the product or combination of those products. 15160

(C)(1) No person shall operate a vehicle, streetcar, or 15161
trackless trolley within this state in violation of division (A) 15162
of section 4511.19 of the Revised Code when one or more children 15163
under eighteen years of age are in the vehicle, streetcar, or 15164
trackless trolley. Notwithstanding any other provision of law, a 15165
person may be convicted at the same trial or proceeding of a 15166
violation of this division and a violation of division (A) of 15167
section 4511.19 of the Revised Code that constitutes the basis of 15168
the charge of the violation of this division. For purposes of 15169
sections 4511.191 to 4511.197 of the Revised Code and all related 15170
provisions of law, a person arrested for a violation of this 15171

division shall be considered to be under arrest for operating a
vehicle while under the influence of alcohol, a drug of abuse, or
a combination of them or for operating a vehicle with a prohibited
concentration of alcohol in the whole blood, blood serum or
plasma, breath, or urine.

(2) As used in division (C)(1) of this section, "vehicle,"
"streetcar," and "trackless trolley" have the same meanings as in
section 4511.01 of the Revised Code.

(D)(1) Division (B)(5) of this section does not apply to any
material or performance that is produced, presented, or
disseminated for a bona fide medical, scientific, educational,
religious, governmental, judicial, or other proper purpose, by or
to a physician, psychologist, sociologist, scientist, teacher,
person pursuing bona fide studies or research, librarian, member
of the clergy, prosecutor, judge, or other person having a proper
interest in the material or performance.

(2) Mistake of age is not a defense to a charge under
division (B)(5) of this section.

(3) In a prosecution under division (B)(5) of this section,
the trier of fact may infer that an actor, model, or participant
in the material or performance involved is a juvenile if the
material or performance, through its title, text, visual
representation, or otherwise, represents or depicts the actor,
model, or participant as a juvenile.

(4) As used in this division and division (B)(5) of this
section:

(a) "Material," "performance," "obscene," and "sexual
activity" have the same meanings as in section 2907.01 of the
Revised Code.

(b) "Nudity-oriented matter" means any material or

performance that shows a minor in a state of nudity and that, 15202
taken as a whole by the average person applying contemporary 15203
community standards, appeals to prurient interest. 15204

(c) "Sexually oriented matter" means any material or 15205
performance that shows a minor participating or engaging in sexual 15206
activity, masturbation, or bestiality. 15207

(E)(1) Whoever violates this section is guilty of endangering 15208
children. 15209

(2) If the offender violates division (A) or (B)(1) of this 15210
section, endangering children is one of the following: 15211

(a) Except as otherwise provided in division (E)(2)(b), (c), 15212
or (d) of this section, a misdemeanor of the first degree; 15213

(b) If the offender previously has been convicted of an 15214
offense under this section or of any offense involving neglect, 15215
abandonment, contributing to the delinquency of, or physical abuse 15216
of a child, except as otherwise provided in division (E)(2)(c) or 15217
(d) of this section, a felony of the fourth degree; 15218

(c) If the violation is a violation of division (A) of this 15219
section and results in serious physical harm to the child 15220
involved, a felony of the third degree; 15221

(d) If the violation is a violation of division (B)(1) of 15222
this section and results in serious physical harm to the child 15223
involved, a felony of the second degree. 15224

(3) If the offender violates division (B)(2), (3), (4), or 15225
(6) of this section, except as otherwise provided in this 15226
division, endangering children is a felony of the third degree. If 15227
the violation results in serious physical harm to the child 15228
involved, or if the offender previously has been convicted of an 15229
offense under this section or of any offense involving neglect, 15230
abandonment, contributing to the delinquency of, or physical abuse 15231

of a child, endangering children is a felony of the second degree. 15232

(4) If the offender violates division (B)(5) of this section, 15233
endangering children is a felony of the second degree. 15234

(5) If the offender violates division (B)(7) of this section, 15235
endangering children is a felony of the fourth degree. 15236

(6) If the offender violates division (C) of this section, 15237
the offender shall be punished as follows: 15238

(a) Except as otherwise provided in division (E)~~(5)~~(6)(b) or 15239
(c) of this section, endangering children in violation of division 15240
(C) of this section is a misdemeanor of the first degree. 15241

(b) If the violation results in serious physical harm to the 15242
child involved or the offender previously has been convicted of an 15243
offense under this section or any offense involving neglect, 15244
abandonment, contributing to the delinquency of, or physical abuse 15245
of a child, except as otherwise provided in division (E)~~(5)~~(6)(c) 15246
of this section, endangering children in violation of division (C) 15247
of this section is a felony of the fifth degree. 15248

(c) If the violation results in serious physical harm to the 15249
child involved and if the offender previously has been convicted 15250
of a violation of division (C) of this section, section 2903.06 or 15251
2903.08 of the Revised Code, section 2903.07 of the Revised Code 15252
as it existed prior to March 23, 2000, or section 2903.04 of the 15253
Revised Code in a case in which the offender was subject to the 15254
sanctions described in division (D) of that section, endangering 15255
children in violation of division (C) of this section is a felony 15256
of the fourth degree. 15257

(d) In addition to any term of imprisonment, fine, or other 15258
sentence, penalty, or sanction it imposes upon the offender 15259
pursuant to division (E)~~(5)~~(6)(a), (b), or (c) of this section or 15260
pursuant to any other provision of law and in addition to any 15261

suspension of the offender's driver's or commercial driver's 15262
license or permit or nonresident operating privilege under Chapter 15263
4506., 4509., 4510., or 4511. of the Revised Code or under any 15264
other provision of law, the court also may impose upon the 15265
offender a class seven suspension of the offender's driver's or 15266
commercial driver's license or permit or nonresident operating 15267
privilege from the range specified in division (A)(7) of section 15268
4510.02 of the Revised Code. 15269

(e) In addition to any term of imprisonment, fine, or other 15270
sentence, penalty, or sanction imposed upon the offender pursuant 15271
to division (E)~~(5)~~(6)(a), (b), (c), or (d) of this section or 15272
pursuant to any other provision of law for the violation of 15273
division (C) of this section, if as part of the same trial or 15274
proceeding the offender also is convicted of or pleads guilty to a 15275
separate charge charging the violation of division (A) of section 15276
4511.19 of the Revised Code that was the basis of the charge of 15277
the violation of division (C) of this section, the offender also 15278
shall be sentenced in accordance with section 4511.19 of the 15279
Revised Code for that violation of division (A) of section 4511.19 15280
of the Revised Code. 15281

(F)(1)(a) A court may require an offender to perform not more 15282
than two hundred hours of supervised community service work under 15283
the authority of an agency, subdivision, or charitable 15284
organization. The requirement shall be part of the community 15285
control sanction or sentence of the offender, and the court shall 15286
impose the community service in accordance with and subject to 15287
divisions (F)(1)(a) and (b) of this section. The court may require 15288
an offender whom it requires to perform supervised community 15289
service work as part of the offender's community control sanction 15290
or sentence to pay the court a reasonable fee to cover the costs 15291
of the offender's participation in the work, including, but not 15292
limited to, the costs of procuring a policy or policies of 15293

liability insurance to cover the period during which the offender 15294
will perform the work. If the court requires the offender to 15295
perform supervised community service work as part of the 15296
offender's community control sanction or sentence, the court shall 15297
do so in accordance with the following limitations and criteria: 15298

(i) The court shall require that the community service work 15299
be performed after completion of the term of imprisonment or jail 15300
term imposed upon the offender for the violation of division (C) 15301
of this section, if applicable. 15302

(ii) The supervised community service work shall be subject 15303
to the limitations set forth in divisions (B)(1), (2), and (3) of 15304
section 2951.02 of the Revised Code. 15305

(iii) The community service work shall be supervised in the 15306
manner described in division (B)(4) of section 2951.02 of the 15307
Revised Code by an official or person with the qualifications 15308
described in that division. The official or person periodically 15309
shall report in writing to the court concerning the conduct of the 15310
offender in performing the work. 15311

(iv) The court shall inform the offender in writing that if 15312
the offender does not adequately perform, as determined by the 15313
court, all of the required community service work, the court may 15314
order that the offender be committed to a jail or workhouse for a 15315
period of time that does not exceed the term of imprisonment that 15316
the court could have imposed upon the offender for the violation 15317
of division (C) of this section, reduced by the total amount of 15318
time that the offender actually was imprisoned under the sentence 15319
or term that was imposed upon the offender for that violation and 15320
by the total amount of time that the offender was confined for any 15321
reason arising out of the offense for which the offender was 15322
convicted and sentenced as described in sections 2949.08 and 15323
2967.191 of the Revised Code, and that, if the court orders that 15324

the offender be so committed, the court is authorized, but not
required, to grant the offender credit upon the period of the
commitment for the community service work that the offender
adequately performed.

(b) If a court, pursuant to division (F)(1)(a) of this
section, orders an offender to perform community service work as
part of the offender's community control sanction or sentence and
if the offender does not adequately perform all of the required
community service work, as determined by the court, the court may
order that the offender be committed to a jail or workhouse for a
period of time that does not exceed the term of imprisonment that
the court could have imposed upon the offender for the violation
of division (C) of this section, reduced by the total amount of
time that the offender actually was imprisoned under the sentence
or term that was imposed upon the offender for that violation and
by the total amount of time that the offender was confined for any
reason arising out of the offense for which the offender was
convicted and sentenced as described in sections 2949.08 and
2967.191 of the Revised Code. The court may order that a person
committed pursuant to this division shall receive hour-for-hour
credit upon the period of the commitment for the community service
work that the offender adequately performed. No commitment
pursuant to this division shall exceed the period of the term of
imprisonment that the sentencing court could have imposed upon the
offender for the violation of division (C) of this section,
reduced by the total amount of time that the offender actually was
imprisoned under that sentence or term and by the total amount of
time that the offender was confined for any reason arising out of
the offense for which the offender was convicted and sentenced as
described in sections 2949.08 and 2967.191 of the Revised Code.

(2) Division (F)(1) of this section does not limit or affect
the authority of the court to suspend the sentence imposed upon a

misdemeanor offender and place the offender under a community control sanction pursuant to section 2929.25 of the Revised Code, to require a misdemeanor or felony offender to perform supervised community service work in accordance with division (B) of section 2951.02 of the Revised Code, or to place a felony offender under a community control sanction.

(G)(1) If a court suspends an offender's driver's or commercial driver's license or permit or nonresident operating privilege under division (E)~~(5)~~(6)(d) of this section, the period of the suspension shall be consecutive to, and commence after, the period of suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege that is imposed under Chapter 4506., 4509., 4510., or 4511. of the Revised Code or under any other provision of law in relation to the violation of division (C) of this section that is the basis of the suspension under division (E)~~(5)~~(6)(d) of this section or in relation to the violation of division (A) of section 4511.19 of the Revised Code that is the basis for that violation of division (C) of this section.

(2) An offender is not entitled to request, and the court shall not grant to the offender, limited driving privileges if the offender's license, permit, or privilege has been suspended under division (E)~~(5)~~(6)(d) of this section and the offender, within the preceding six years, has been convicted of or pleaded guilty to three or more violations of one or more of the following:

(a) Division (C) of this section;

(b) Any equivalent offense, as defined in section 4511.181 of the Revised Code.

(H)(1) If a person violates division (C) of this section and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the

violation, the offender may be convicted of a violation of 15388
division (C) of this section for each of the children, but the 15389
court may sentence the offender for only one of the violations. 15390

(2)(a) If a person is convicted of or pleads guilty to a 15391
violation of division (C) of this section but the person is not 15392
also convicted of and does not also plead guilty to a separate 15393
charge charging the violation of division (A) of section 4511.19 15394
of the Revised Code that was the basis of the charge of the 15395
violation of division (C) of this section, both of the following 15396
apply: 15397

(i) For purposes of the provisions of section 4511.19 of the 15398
Revised Code that set forth the penalties and sanctions for a 15399
violation of division (A) of section 4511.19 of the Revised Code, 15400
the conviction of or plea of guilty to the violation of division 15401
(C) of this section shall not constitute a violation of division 15402
(A) of section 4511.19 of the Revised Code; 15403

(ii) For purposes of any provision of law that refers to a 15404
conviction of or plea of guilty to a violation of division (A) of 15405
section 4511.19 of the Revised Code and that is not described in 15406
division (H)(2)(a)(i) of this section, the conviction of or plea 15407
of guilty to the violation of division (C) of this section shall 15408
constitute a conviction of or plea of guilty to a violation of 15409
division (A) of section 4511.19 of the Revised Code. 15410

(b) If a person is convicted of or pleads guilty to a 15411
violation of division (C) of this section and the person also is 15412
convicted of or pleads guilty to a separate charge charging the 15413
violation of division (A) of section 4511.19 of the Revised Code 15414
that was the basis of the charge of the violation of division (C) 15415
of this section, the conviction of or plea of guilty to the 15416
violation of division (C) of this section shall not constitute, 15417
for purposes of any provision of law that refers to a conviction 15418

of or plea of guilty to a violation of division (A) of section 15419
4511.19 of the Revised Code, a conviction of or plea of guilty to 15420
a violation of division (A) of section 4511.19 of the Revised 15421
Code. 15422

(I) As used in this section: 15423

(1) "Community control sanction" has the same meaning as in 15424
section 2929.01 of the Revised Code; 15425

(2) "Limited driving privileges" has the same meaning as in 15426
section 4501.01 of the Revised Code; 15427

(3) "Ephedrine product," "phenylpropanolamine product," and 15428
"pseudoephedrine product" have the same meanings as in section 15429
2925.01 of the Revised Code. 15430

Sec. 2921.13. (A) No person shall knowingly make a false 15431
statement, or knowingly swear or affirm the truth of a false 15432
statement previously made, when any of the following applies: 15433

(1) The statement is made in any official proceeding. 15434

(2) The statement is made with purpose to incriminate 15435
another. 15436

(3) The statement is made with purpose to mislead a public 15437
official in performing the public official's official function. 15438

(4) The statement is made with purpose to secure the payment 15439
of unemployment compensation; Ohio works first; prevention, 15440
retention, and contingency benefits and services; disability 15441
financial assistance; retirement benefits; economic development 15442
assistance, as defined in section 9.66 of the Revised Code; or 15443
other benefits administered by a governmental agency or paid out 15444
of a public treasury. 15445

(5) The statement is made with purpose to secure the issuance 15446
by a governmental agency of a license, permit, authorization, 15447

certificate, registration, release, or provider agreement. 15448

(6) The statement is sworn or affirmed before a notary public 15449
or another person empowered to administer oaths. 15450

(7) The statement is in writing on or in connection with a 15451
report or return that is required or authorized by law. 15452

(8) The statement is in writing and is made with purpose to 15453
induce another to extend credit to or employ the offender, to 15454
confer any degree, diploma, certificate of attainment, award of 15455
excellence, or honor on the offender, or to extend to or bestow 15456
upon the offender any other valuable benefit or distinction, when 15457
the person to whom the statement is directed relies upon it to 15458
that person's detriment. 15459

(9) The statement is made with purpose to commit or 15460
facilitate the commission of a theft offense. 15461

(10) The statement is knowingly made to a probate court in 15462
connection with any action, proceeding, or other matter within its 15463
jurisdiction, either orally or in a written document, including, 15464
but not limited to, an application, petition, complaint, or other 15465
pleading, or an inventory, account, or report. 15466

(11) The statement is made on an account, form, record, 15467
stamp, label, or other writing that is required by law. 15468

(12) The statement is made in connection with the purchase of 15469
a firearm, as defined in section 2923.11 of the Revised Code, and 15470
in conjunction with the furnishing to the seller of the firearm of 15471
a fictitious or altered driver's or commercial driver's license or 15472
permit, a fictitious or altered identification card, or any other 15473
document that contains false information about the purchaser's 15474
identity. 15475

(13) The statement is made in a document or instrument of 15476
writing that purports to be a judgment, lien, or claim of 15477

indebtedness and is filed or recorded with the secretary of state, 15478
a county recorder, or the clerk of a court of record. 15479

(14) The statement is made with purpose to obtain an Ohio's 15480
best Rx program enrollment card under section 5110.09 of the 15481
Revised Code or a payment from the department of job and family 15482
services under section 5110.17 of the Revised Code. 15483

~~(14)~~(15) The statement is made in an application filed with a 15484
county sheriff pursuant to section 2923.125 of the Revised Code in 15485
order to obtain or renew a license to carry a concealed handgun or 15486
is made in an affidavit submitted to a county sheriff to obtain a 15487
temporary emergency license to carry a concealed handgun under 15488
section 2923.1213 of the Revised Code. 15489

(16) The statement is required under section 5743.72 of the 15490
Revised Code in connection with the person's purchase of 15491
cigarettes or tobacco products in a delivery sale. 15492

(B) No person, in connection with the purchase of a firearm, 15493
as defined in section 2923.11 of the Revised Code, shall knowingly 15494
furnish to the seller of the firearm a fictitious or altered 15495
driver's or commercial driver's license or permit, a fictitious or 15496
altered identification card, or any other document that contains 15497
false information about the purchaser's identity. 15498

(C) No person, in an attempt to obtain a license to carry a 15499
concealed handgun under section 2923.125 of the Revised Code, 15500
shall knowingly present to a sheriff a fictitious or altered 15501
document that purports to be certification of the person's 15502
competence in handling a handgun as described in division (B)(3) 15503
of section 2923.125 of the Revised Code. 15504

(D) It is no defense to a charge under division (A)(6) of 15505
this section that the oath or affirmation was administered or 15506
taken in an irregular manner. 15507

(E) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false but only that one or the other was false.

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (13), ~~or (14)~~, or (16) of this section is guilty of falsification, a misdemeanor of the first degree.

(2) Whoever violates division (A)(9) of this section is guilty of falsification in a theft offense. Except as otherwise provided in this division, falsification in a theft offense is a misdemeanor of the first degree. If the value of the property or services stolen is five hundred dollars or more and is less than five thousand dollars, falsification in a theft offense is a felony of the fifth degree. If the value of the property or services stolen is five thousand dollars or more and is less than one hundred thousand dollars, falsification in a theft offense is a felony of the fourth degree. If the value of the property or services stolen is one hundred thousand dollars or more, falsification in a theft offense is a felony of the third degree.

(3) Whoever violates division (A)(12) or (B) of this section is guilty of falsification to purchase a firearm, a felony of the fifth degree.

(4) Whoever violates division (A)~~(14)~~(15) or (C) of this section is guilty of falsification to obtain a concealed handgun license, a felony of the fourth degree.

(G) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil

action commenced under this division. A civil action under this 15539
division is not the exclusive remedy of a person who incurs 15540
injury, death, or loss to person or property as a result of a 15541
violation of this section. 15542

Sec. 2923.25. Each federally licensed firearms dealer who 15543
sells any firearm, at the time of the sale of the firearm, shall 15544
offer for sale to the purchaser of the firearm a trigger lock, gun 15545
lock, or gun locking device that is appropriate for that firearm. 15546
Each federally licensed firearms dealer shall post in a 15547
conspicuous location in the dealer's place of business the poster 15548
furnished to the dealer pursuant to section ~~181.521~~ 5502.63 of the 15549
Revised Code and shall make available to all purchasers of 15550
firearms from the dealer the brochure furnished to the dealer 15551
pursuant to that section. 15552

As used in this section, "federally licensed firearms dealer" 15553
has the same meaning as in section ~~181.251~~ 5502.63 of the Revised 15554
Code. 15555

Sec. 2925.01. As used in this chapter: 15556

(A) "Administer," "controlled substance," "dispense," 15557
"distribute," "hypodermic," "manufacturer," "official written 15558
order," "person," "pharmacist," "pharmacy," "sale," "schedule I," 15559
"schedule II," "schedule III," "schedule IV," "schedule V," and 15560
"wholesaler" have the same meanings as in section 3719.01 of the 15561
Revised Code. 15562

(B) "Drug dependent person" and "drug of abuse" have the same 15563
meanings as in section 3719.011 of the Revised Code. 15564

(C) "Drug," "dangerous drug," "licensed health professional 15565
authorized to prescribe drugs," ~~and~~ "manufacturer of dangerous 15566
drugs," "prescription," and "terminal distributor of drugs" have 15567
the same meanings as in section 4729.01 of the Revised Code. 15568

(D) "Bulk amount" of a controlled substance means any of the following: 15569
15570

(1) For any compound, mixture, preparation, or substance 15571
included in schedule I, schedule II, or schedule III, with the 15572
exception of marihuana, cocaine, L.S.D., heroin, and hashish and 15573
except as provided in division (D)(2) or (5) of this section, 15574
whichever of the following is applicable: 15575

(a) An amount equal to or exceeding ten grams or twenty-five 15576
unit doses of a compound, mixture, preparation, or substance that 15577
is or contains any amount of a schedule I opiate or opium 15578
derivative; 15579

(b) An amount equal to or exceeding ten grams of a compound, 15580
mixture, preparation, or substance that is or contains any amount 15581
of raw or gum opium; 15582

(c) An amount equal to or exceeding thirty grams or ten unit 15583
doses of a compound, mixture, preparation, or substance that is or 15584
contains any amount of a schedule I hallucinogen other than 15585
tetrahydrocannabinol or lysergic acid amide, or a schedule I 15586
stimulant or depressant; 15587

(d) An amount equal to or exceeding twenty grams or five 15588
times the maximum daily dose in the usual dose range specified in 15589
a standard pharmaceutical reference manual of a compound, mixture, 15590
preparation, or substance that is or contains any amount of a 15591
schedule II opiate or opium derivative; 15592

(e) An amount equal to or exceeding five grams or ten unit 15593
doses of a compound, mixture, preparation, or substance that is or 15594
contains any amount of phencyclidine; 15595

(f) An amount equal to or exceeding one hundred twenty grams 15596
or thirty times the maximum daily dose in the usual dose range 15597
specified in a standard pharmaceutical reference manual of a 15598

compound, mixture, preparation, or substance that is or contains 15599
any amount of a schedule II stimulant that is in a final dosage 15600
form manufactured by a person authorized by the "Federal Food, 15601
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as 15602
amended, and the federal drug abuse control laws, as defined in 15603
section 3719.01 of the Revised Code, that is or contains any 15604
amount of a schedule II depressant substance or a schedule II 15605
hallucinogenic substance; 15606

(g) An amount equal to or exceeding three grams of a 15607
compound, mixture, preparation, or substance that is or contains 15608
any amount of a schedule II stimulant, or any of its salts or 15609
isomers, that is not in a final dosage form manufactured by a 15610
person authorized by the Federal Food, Drug, and Cosmetic Act and 15611
the federal drug abuse control laws. 15612

(2) An amount equal to or exceeding one hundred twenty grams 15613
or thirty times the maximum daily dose in the usual dose range 15614
specified in a standard pharmaceutical reference manual of a 15615
compound, mixture, preparation, or substance that is or contains 15616
any amount of a schedule III or IV substance other than an 15617
anabolic steroid or a schedule III opiate or opium derivative; 15618

(3) An amount equal to or exceeding twenty grams or five 15619
times the maximum daily dose in the usual dose range specified in 15620
a standard pharmaceutical reference manual of a compound, mixture, 15621
preparation, or substance that is or contains any amount of a 15622
schedule III opiate or opium derivative; 15623

(4) An amount equal to or exceeding two hundred fifty 15624
milliliters or two hundred fifty grams of a compound, mixture, 15625
preparation, or substance that is or contains any amount of a 15626
schedule V substance; 15627

(5) An amount equal to or exceeding two hundred solid dosage 15628
units, sixteen grams, or sixteen milliliters of a compound, 15629

mixture, preparation, or substance that is or contains any amount of a schedule III anabolic steroid. 15630
15631

(E) "Unit dose" means an amount or unit of a compound, mixture, or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual. 15632
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(F) "Cultivate" includes planting, watering, fertilizing, or tilling. 15637
15638

(G) "Drug abuse offense" means any of the following: 15639

(1) A violation of division (A) of section 2913.02 that constitutes theft of drugs, or a violation of section 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised Code; 15640
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(2) A violation of an existing or former law of this or any other state or of the United States that is substantially equivalent to any section listed in division (G)(1) of this section; 15645
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(3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise dealing with a controlled substance is an element; 15649
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(4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit any offense under division (G)(1), (2), or (3) of this section. 15656
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(H) "Felony drug abuse offense" means any drug abuse offense 15659

that would constitute a felony under the laws of this state, any
other state, or the United States.

(I) "Harmful intoxicant" does not include beer or
intoxicating liquor but means any of the following:

(1) Any compound, mixture, preparation, or substance the gas,
fumes, or vapor of which when inhaled can induce intoxication,
excitement, giddiness, irrational behavior, depression,
stupefaction, paralysis, unconsciousness, asphyxiation, or other
harmful physiological effects, and includes, but is not limited
to, any of the following:

(a) Any volatile organic solvent, plastic cement, model
cement, fingernail polish remover, lacquer thinner, cleaning
fluid, gasoline, or other preparation containing a volatile
organic solvent;

(b) Any aerosol propellant;

(c) Any fluorocarbon refrigerant;

(d) Any anesthetic gas.

(2) Gamma Butyrolactone;

(3) 1,4 Butanediol.

(J) "Manufacture" means to plant, cultivate, harvest,
process, make, prepare, or otherwise engage in any part of the
production of a drug, by propagation, extraction, chemical
synthesis, or compounding, or any combination of the same, and
includes packaging, repackaging, labeling, and other activities
incident to production.

(K) "Possess" or "possession" means having control over a
thing or substance, but may not be inferred solely from mere
access to the thing or substance through ownership or occupation
of the premises upon which the thing or substance is found.

(L) "Sample drug" means a drug or pharmaceutical preparation 15689
that would be hazardous to health or safety if used without the 15690
supervision of a licensed health professional authorized to 15691
prescribe drugs, or a drug of abuse, and that, at one time, had 15692
been placed in a container plainly marked as a sample by a 15693
manufacturer. 15694

(M) "Standard pharmaceutical reference manual" means the 15695
current edition, with cumulative changes if any, of any of the 15696
following reference works: 15697

(1) "The National Formulary"; 15698

(2) "The United States Pharmacopeia," prepared by authority 15699
of the United States Pharmacopeial Convention, Inc.; 15700

(3) Other standard references that are approved by the state 15701
board of pharmacy. 15702

(N) "Juvenile" means a person under eighteen years of age. 15703

(O) "Counterfeit controlled substance" means any of the 15704
following: 15705

(1) Any drug that bears, or whose container or label bears, a 15706
trademark, trade name, or other identifying mark used without 15707
authorization of the owner of rights to that trademark, trade 15708
name, or identifying mark; 15709

(2) Any unmarked or unlabeled substance that is represented 15710
to be a controlled substance manufactured, processed, packed, or 15711
distributed by a person other than the person that manufactured, 15712
processed, packed, or distributed it; 15713

(3) Any substance that is represented to be a controlled 15714
substance but is not a controlled substance or is a different 15715
controlled substance; 15716

(4) Any substance other than a controlled substance that a 15717
reasonable person would believe to be a controlled substance 15718

because of its similarity in shape, size, and color, or its 15719
markings, labeling, packaging, distribution, or the price for 15720
which it is sold or offered for sale. 15721

(P) An offense is "committed in the vicinity of a school" if 15722
the offender commits the offense on school premises, in a school 15723
building, or within one thousand feet of the boundaries of any 15724
school premises, regardless of whether the offender knows the 15725
offense is being committed on school premises, in a school 15726
building, or within one thousand feet of the boundaries of any 15727
school premises. 15728

(Q) "School" means any school operated by a board of 15729
education, any community school established under Chapter 3314. of 15730
the Revised Code, or any nonpublic school for which the state 15731
board of education prescribes minimum standards under section 15732
3301.07 of the Revised Code, whether or not any instruction, 15733
extracurricular activities, or training provided by the school is 15734
being conducted at the time a criminal offense is committed. 15735

(R) "School premises" means either of the following: 15736

(1) The parcel of real property on which any school is 15737
situated, whether or not any instruction, extracurricular 15738
activities, or training provided by the school is being conducted 15739
on the premises at the time a criminal offense is committed; 15740

(2) Any other parcel of real property that is owned or leased 15741
by a board of education of a school, the governing authority of a 15742
community school established under Chapter 3314. of the Revised 15743
Code, or the governing body of a nonpublic school for which the 15744
state board of education prescribes minimum standards under 15745
section 3301.07 of the Revised Code and on which some of the 15746
instruction, extracurricular activities, or training of the school 15747
is conducted, whether or not any instruction, extracurricular 15748
activities, or training provided by the school is being conducted 15749

on the parcel of real property at the time a criminal offense is committed. 15750
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(S) "School building" means any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted in the school building at the time a criminal offense is committed. 15752
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(T) "Disciplinary counsel" means the disciplinary counsel appointed by the board of commissioners on grievances and discipline of the supreme court under the Rules for the Government of the Bar of Ohio. 15758
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(U) "Certified grievance committee" means a duly constituted and organized committee of the Ohio state bar association or of one or more local bar associations of the state of Ohio that complies with the criteria set forth in Rule V, section 6 of the Rules for the Government of the Bar of Ohio. 15762
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(V) "Professional license" means any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate, or temporary registration that is described in divisions (W)(1) to (36) of this section and that qualifies a person as a professionally licensed person. 15767
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(W) "Professionally licensed person" means any of the following: 15773
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(1) A person who has obtained a license as a manufacturer of controlled substances or a wholesaler of controlled substances under Chapter 3719. of the Revised Code; 15775
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(2) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered 15778
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as a public accountant under Chapter 4701. of the Revised Code and	15780
who holds an Ohio permit issued under that chapter;	15781
(3) A person who holds a certificate of qualification to	15782
practice architecture issued or renewed and registered under	15783
Chapter 4703. of the Revised Code;	15784
(4) A person who is registered as a landscape architect under	15785
Chapter 4703. of the Revised Code or who holds a permit as a	15786
landscape architect issued under that chapter;	15787
(5) A person licensed under Chapter 4707. of the Revised	15788
Code;	15789
(6) A person who has been issued a certificate of	15790
registration as a registered barber under Chapter 4709. of the	15791
Revised Code;	15792
(7) A person licensed and regulated to engage in the business	15793
of a debt pooling company by a legislative authority, under	15794
authority of Chapter 4710. of the Revised Code;	15795
(8) A person who has been issued a cosmetologist's license,	15796
hair designer's license, manicurist's license, esthetician's	15797
license, natural hair stylist's license, managing cosmetologist's	15798
license, managing hair designer's license, managing manicurist's	15799
license, managing esthetician's license, managing natural hair	15800
stylist's license, cosmetology instructor's license, hair design	15801
instructor's license, manicurist instructor's license, esthetics	15802
instructor's license, natural hair style instructor's license,	15803
independent contractor's license, or tanning facility permit under	15804
Chapter 4713. of the Revised Code;	15805
(9) A person who has been issued a license to practice	15806
dentistry, a general anesthesia permit, a conscious intravenous	15807
sedation permit, a limited resident's license, a limited teaching	15808
license, a dental hygienist's license, or a dental hygienist's	15809

teacher's certificate under Chapter 4715. of the Revised Code;	15810
(10) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Chapter 4717. of the Revised Code;	15811 15812 15813 15814
(11) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Chapter 4723. of the Revised Code;	15815 15816 15817 15818
(12) A person who has been licensed to practice optometry or to engage in optical dispensing under Chapter 4725. of the Revised Code;	15819 15820 15821
(13) A person licensed to act as a pawnbroker under Chapter 4727. of the Revised Code;	15822 15823
(14) A person licensed to act as a precious metals dealer under Chapter 4728. of the Revised Code;	15824 15825
(15) A person licensed as a pharmacist, a pharmacy intern, a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs under Chapter 4729. of the Revised Code;	15826 15827 15828 15829
(16) A person who is authorized to practice as a physician assistant under Chapter 4730. of the Revised Code;	15830 15831
(17) A person who has been issued a certificate to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine, or podiatry under Chapter 4731. of the Revised Code;	15832 15833 15834 15835
(18) A person licensed as a psychologist or school psychologist under Chapter 4732. of the Revised Code;	15836 15837
(19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code;	15838 15839

(20) A person who has been issued a license to practice chiropractic under Chapter 4734. of the Revised Code;	15840 15841
(21) A person licensed to act as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code;	15842 15843
(22) A person registered as a registered sanitarian under Chapter 4736. of the Revised Code;	15844 15845
(23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code;	15846 15847
(24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code;	15848 15849
(25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code;	15850 15851
(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;	15852 15853 15854 15855
(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;	15856 15857 15858
(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;	15859 15860 15861
(29) A person licensed and registered to practice as a nursing home administrator under Chapter 4751. of the Revised Code;	15862 15863 15864
(30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised Code;	15865 15866 15867
(31) A person issued a license as an occupational therapist	15868

or physical therapist under Chapter 4755. of the Revised Code;	15869
(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;	15870 15871 15872 15873
(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;	15874 15875
(34) A person who has been issued a license or limited permit to practice respiratory therapy under Chapter 4761. of the Revised Code;	15876 15877 15878
(35) A person who has been issued a real estate appraiser certificate under Chapter 4763. of the Revised Code;	15879 15880
(36) A person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules.	15881 15882 15883
(X) "Cocaine" means any of the following:	15884
(1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine;	15885 15886
(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;	15887 15888 15889 15890
(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.	15891 15892 15893 15894 15895 15896
(Y) "L.S.D." means lysergic acid diethylamide.	15897

(Z) "Hashish" means the resin or a preparation of the resin 15898
contained in marihuana, whether in solid form or in a liquid 15899
concentrate, liquid extract, or liquid distillate form. 15900

(AA) "Marihuana" has the same meaning as in section 3719.01 15901
of the Revised Code, except that it does not include hashish. 15902

(BB) An offense is "committed in the vicinity of a juvenile" 15903
if the offender commits the offense within one hundred feet of a 15904
juvenile or within the view of a juvenile, regardless of whether 15905
the offender knows the age of the juvenile, whether the offender 15906
knows the offense is being committed within one hundred feet of or 15907
within view of the juvenile, or whether the juvenile actually 15908
views the commission of the offense. 15909

(CC) "Presumption for a prison term" or "presumption that a 15910
prison term shall be imposed" means a presumption, as described in 15911
division (D) of section 2929.13 of the Revised Code, that a prison 15912
term is a necessary sanction for a felony in order to comply with 15913
the purposes and principles of sentencing under section 2929.11 of 15914
the Revised Code. 15915

(DD) "Major drug offender" has the same meaning as in section 15916
2929.01 of the Revised Code. 15917

(EE) "Minor drug possession offense" means either of the 15918
following: 15919

(1) A violation of section 2925.11 of the Revised Code as it 15920
existed prior to July 1, 1996; 15921

(2) A violation of section 2925.11 of the Revised Code as it 15922
exists on and after July 1, 1996, that is a misdemeanor or a 15923
felony of the fifth degree. 15924

(FF) "Mandatory prison term" has the same meaning as in 15925
section 2929.01 of the Revised Code. 15926

(GG) "Crack cocaine" means a compound, mixture, preparation, 15927

or substance that is or contains any amount of cocaine that is 15928
analytically identified as the base form of cocaine or that is in 15929
a form that resembles rocks or pebbles generally intended for 15930
individual use. 15931

(HH) "Adulterate" means to cause a drug to be adulterated as 15932
described in section 3715.63 of the Revised Code. 15933

(II) "Public premises" means any hotel, restaurant, tavern, 15934
store, arena, hall, or other place of public accommodation, 15935
business, amusement, or resort. 15936

(JJ) "Consumer product" means any food or drink that is 15937
consumed or used by humans and any drug, including a drug that may 15938
be provided legally only pursuant to a prescription, that is 15939
intended to be consumed or used by humans. 15940

(KK) "Ephedrine" means any material, compound, mixture, or 15941
preparation that contains any quantity of ephedrine, its salts or 15942
optical isomers, or salts of optical isomers. 15943

(LL)(1) "Ephedrine product" means, subject to division 15944
(LL)(2) of this section, any consumer product that consists of a 15945
single-ingredient preparation of ephedrine in which ephedrine is 15946
the single active ingredient. 15947

(2) "Ephedrine product" does not include any consumer product 15948
described in division (LL)(1) of this section that is in pediatric 15949
form, or in liquid, liquid capsule, or gel capsule form. 15950

(MM) "Phenylpropanolamine" means any material, compound, 15951
mixture, or preparation that contains any quantity of 15952
phenylpropanolamine, its salts or optical isomers, or salts of 15953
optical isomers. 15954

(NN)(1) "Phenylpropanolamine product" means, subject to 15955
division (NN)(2) of this section, any consumer product that 15956
consists of a single-ingredient preparation of phenylpropanolamine 15957

in which phenylpropanolamine is the single active ingredient. 15958

(2) "Phenylpropanolamine product" does not include any consumer product described in division (NN)(1) of this section that is in pediatric form, or in liquid, liquid capsule, or gel capsule form. 15959
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(OO) "Proof of age" means a driver's license, commercial driver's license, military identification card, passport, or identification card issued under sections 4507.50 to 4507.52 of the Revised Code that shows a person is eighteen years of age or older. 15963
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(PP) "Pseudoephedrine" means any material, compound, mixture, or preparation that contains any quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers. 15968
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(OO)(1) "Pseudoephedrine product" means, subject to division (OO)(2) of this section, any consumer product that consists of a single-ingredient preparation of pseudoephedrine in which pseudoephedrine is the single active ingredient. 15971
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(2) "Pseudoephedrine product" does not include any consumer product described in division (OO)(1) of this section that is in pediatric form, or in liquid, liquid capsule, or gel capsule form. 15975
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(RR) "Retailer" means a place of business that offers consumer products for sale to the general public. 15978
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(SS) "Single-ingredient preparation" means a compound, mixture, preparation, or substance that contains a single active ingredient. 15980
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Sec. 2925.04. (A) No person shall knowingly cultivate marihuana or knowingly manufacture or otherwise engage in any part of the production of a controlled substance. 15983
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(B) This section does not apply to any person listed in 15986

division (B)(1), (2), or (3) of section 2925.03 of the Revised Code to the extent and under the circumstances described in those divisions. 15987
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(C)(1) Whoever commits a violation of division (A) of this section that involves any drug other than marihuana is guilty of illegal manufacture of drugs, and whoever commits a violation of division (A) of this section that involves marihuana is guilty of illegal cultivation of marihuana. 15990
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(2) Except as otherwise provided in this division, if the drug involved in the violation of division (A) of this section is any compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, illegal manufacture of drugs is a felony of the second degree, and, subject to division (E) of this section, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the drug involved in the violation is any compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, and if the offense was committed in the vicinity of a juvenile or in the vicinity of a school, illegal manufacture of drugs is a felony of the first degree, and, subject to division (E) of this section, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree. If the drug involved in the violation is methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine and if the offense was committed on public premises, in the vicinity of a juvenile, or in the vicinity of a school, illegal manufacture of drugs is a felony of the first degree, and, subject to division (E) of this section, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first 15995
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degree. 16019

(3) If the drug involved in the violation of division (A) of 16020
this section is any compound, mixture, preparation, or substance 16021
included in schedule III, IV, or V, illegal manufacture of drugs 16022
is a felony of the third degree or, if the offense was committed 16023
in the vicinity of a school or in the vicinity of a juvenile, a 16024
felony of the second degree, and there is a presumption for a 16025
prison term for the offense. 16026

(4) If the drug involved in the violation is marihuana, the 16027
penalty for the offense shall be determined as follows: 16028

(a) Except as otherwise provided in division (C)(4)(b), (c), 16029
(d), (e), or (f) of this section, illegal cultivation of marihuana 16030
is a minor misdemeanor or, if the offense was committed in the 16031
vicinity of a school or in the vicinity of a juvenile, a 16032
misdemeanor of the fourth degree. 16033

(b) If the amount of marihuana involved equals or exceeds one 16034
hundred grams but is less than two hundred grams, illegal 16035
cultivation of marihuana is a misdemeanor of the fourth degree or, 16036
if the offense was committed in the vicinity of a school or in the 16037
vicinity of a juvenile, a misdemeanor of the third degree. 16038

(c) If the amount of marihuana involved equals or exceeds two 16039
hundred grams but is less than one thousand grams, illegal 16040
cultivation of marihuana is a felony of the fifth degree or, if 16041
the offense was committed in the vicinity of a school or in the 16042
vicinity of a juvenile, a felony of the fourth degree, and 16043
division (B) of section 2929.13 of the Revised Code applies in 16044
determining whether to impose a prison term on the offender. 16045

(d) If the amount of marihuana involved equals or exceeds one 16046
thousand grams but is less than five thousand grams, illegal 16047
cultivation of marihuana is a felony of the third degree or, if 16048
the offense was committed in the vicinity of a school or in the 16049

vicinity of a juvenile, a felony of the second degree, and 16050
division (C) of section 2929.13 of the Revised Code applies in 16051
determining whether to impose a prison term on the offender. 16052

(e) If the amount of marihuana involved equals or exceeds 16053
five thousand grams but is less than twenty thousand grams, 16054
illegal cultivation of marihuana is a felony of the third degree 16055
or, if the offense was committed in the vicinity of a school or in 16056
the vicinity of a juvenile, a felony of the second degree, and 16057
there is a presumption for a prison term for the offense. 16058

(f) Except as otherwise provided in this division, if the 16059
amount of marihuana involved equals or exceeds twenty thousand 16060
grams, illegal cultivation of marihuana is a felony of the second 16061
degree, and the court shall impose as a mandatory prison term the 16062
maximum prison term prescribed for a felony of the second degree. 16063
If the amount of the drug involved equals or exceeds twenty 16064
thousand grams and if the offense was committed in the vicinity of 16065
a school or in the vicinity of a juvenile, illegal cultivation of 16066
marihuana is a felony of the first degree, and the court shall 16067
impose as a mandatory prison term the maximum prison term 16068
prescribed for a felony of the first degree. 16069

(D) In addition to any prison term authorized or required by 16070
division (C) or (E) of this section and sections 2929.13 and 16071
2929.14 of the Revised Code and in addition to any other sanction 16072
imposed for the offense under this section or sections 2929.11 to 16073
2929.18 of the Revised Code, the court that sentences an offender 16074
who is convicted of or pleads guilty to a violation of division 16075
(A) of this section shall do all of the following that are 16076
applicable regarding the offender: 16077

(1) If the violation of division (A) of this section is a 16078
felony of the first, second, or third degree, the court shall 16079
impose upon the offender the mandatory fine specified for the 16080

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 16113
required, shall impose upon the offender the mandatory prison term 16114
specified in division (D)(3)(a) of section 2929.14 of the Revised 16115
Code and may impose an additional prison term under division 16116
(D)(3)(b) of that section. 16117

(F) It is an affirmative defense, as provided in section 16118
2901.05 of the Revised Code, to a charge under this section for a 16119
fifth degree felony violation of illegal cultivation of marihuana 16120
that the marihuana that gave rise to the charge is in an amount, 16121
is in a form, is prepared, compounded, or mixed with substances 16122
that are not controlled substances in a manner, or is possessed or 16123
cultivated under any other circumstances that indicate that the 16124
marihuana was solely for personal use. 16125

Notwithstanding any contrary provision of division (F) of 16126
this section, if, in accordance with section 2901.05 of the 16127
Revised Code, a person who is charged with a violation of illegal 16128
cultivation of marihuana that is a felony of the fifth degree 16129
sustains the burden of going forward with evidence of and 16130
establishes by a preponderance of the evidence the affirmative 16131
defense described in this division, the person may be prosecuted 16132
for and may be convicted of or plead guilty to a misdemeanor 16133
violation of illegal cultivation of marihuana. 16134

(G) Arrest or conviction for a minor misdemeanor violation of 16135
this section does not constitute a criminal record and need not be 16136
reported by the person so arrested or convicted in response to any 16137
inquiries about the person's criminal record, including any 16138
inquiries contained in an application for employment, a license, 16139
or any other right or privilege or made in connection with the 16140
person's appearance as a witness. 16141

Sec. 2925.041. (A) No person shall knowingly ~~assemble~~ do any 16142
of the following: 16143

(1) Assemble or possess any ephedrine product, 16144
phenylpropanolamine product, or pseudoephedrine product with the 16145
intent to use the product to manufacture methamphetamine or any 16146
other schedule I or II controlled substance; 16147

(2) Assemble or possess one or more chemicals, other than a 16148
product described in division (A)(1) of this section, that may be 16149
used to manufacture a controlled substance in schedule I or II 16150
with the intent to manufacture a controlled substance in schedule 16151
I or II in violation of section 2925.04 of the Revised Code. 16152

(B)(1) In a prosecution under this section, it is not 16153
necessary to allege or prove that the offender assembled or 16154
possessed all chemicals necessary to manufacture a controlled 16155
substance in schedule I or II. The assembly or possession of a 16156
single chemical that may be used in the manufacture of a 16157
controlled substance in schedule I or II, with the intent to 16158
manufacture a controlled substance in either schedule, is 16159
sufficient to violate this section. 16160

(2) In a prosecution under division (A)(1) of this section, 16161
except as otherwise provided in this division, the possession of 16162
twenty-four grams or more of an ephedrine product, 16163
phenylpropanolamine product, or pseudoephedrine product 16164
constitutes prima-facie evidence of the intent to use the product 16165
to manufacture methamphetamine or another schedule I or II 16166
controlled substance. The prima-facie evidence designation 16167
established by this division does not apply to any of the 16168
following who lawfully possesses drug products in the course of 16169
legitimate business: 16170

(a) A retailer that sells drug products or the agents or 16171
employees of a retailer that sells drug products in the course of 16172
carrying out their duties or employment with the retailer; 16173

(b) A wholesaler or the agents or employees of a wholesaler 16174

in the course of carrying out their duties or employment with the wholesaler; 16175
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(c) A manufacturer or the agents or employees of a manufacturer in the course of carrying out their duties or employment with the manufacturer; 16177
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(d) A pharmacist; 16180

(e) A licensed health care professional authorized to prescribe drugs possessing the drug products in the course of carrying out the person's profession; 16181
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(f) A terminal distributor of dangerous drugs. 16184

(C) Whoever violates this section is guilty of illegal assembly or possession of chemicals for the manufacture of drugs. Except as otherwise provided in this division, illegal assembly or possession of chemicals for the manufacture of drugs is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the offense was committed in the vicinity of a juvenile or in the vicinity of a school, illegal assembly or possession of chemicals for the manufacture of drugs is 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. 16185
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(D) In addition to any prison term authorized by division (C) 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 this section shall do all of the following that are applicable regarding the offender: 16197
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(1) The court shall impose upon the offender the mandatory 16204

fine specified for the offense under division (B)(1) of section 16205
2929.18 of the Revised Code unless, as specified in that division, 16206
the court determines that the offender is indigent. The clerk of 16207
the court shall pay a mandatory fine or other fine imposed for a 16208
violation of this section under division (A) of section 2929.18 of 16209
the Revised Code in accordance with and subject to the 16210
requirements of division (F) of section 2925.03 of the Revised 16211
Code. The agency that receives the fine shall use the fine as 16212
specified in division (F) of section 2925.03 of the Revised Code. 16213
If a person charged with a violation of this section posts bail 16214
and forfeits the bail, the clerk shall pay the forfeited bail as 16215
if the forfeited bail were a fine imposed for a violation of this 16216
section. 16217

(2) The court shall revoke or suspend the offender's driver's 16218
or commercial driver's license or permit in accordance with 16219
division (G) of section 2925.03 of the Revised Code. If an 16220
offender's driver's or commercial driver's license or permit is 16221
revoked in accordance with that division, the offender may request 16222
termination of, and the court may terminate, the revocation in 16223
accordance with that division. 16224

(3) If the offender is a professionally licensed person or a 16225
person who has been admitted to the bar by order of the supreme 16226
court in compliance with its prescribed and published rules, the 16227
court shall comply with section 2925.38 of the Revised Code. 16228

Sec. 2925.15. (A) No individual shall purchase, receive, or 16229
otherwise acquire more than six grams of any ephedrine product, 16230
phenylpropanolamine product, or pseudoephedrine product within a 16231
period of thirty days, unless dispensed by a pharmacist pursuant 16232
to a valid prescription issued by a licensed health care 16233
professional authorized to prescribe drugs. 16234

(B)(1) Except as provided in division (B)(2) of this section, 16235

no retailer or terminal distributor of dangerous drugs shall 16236
knowingly sell, offer to sell, hold for sale, deliver, or 16237
otherwise provide to any individual within any thirty-day period 16238
an amount of ephedrine product, phenylpropanolamine product, or 16239
pseudoephedrine product that exceeds two packages of any one of 16240
those products or of any combination of those products, with 16241
neither package so sold or no combination of packages so sold, 16242
whichever is applicable, containing more than six grams of the 16243
product. 16244

(2) Division (B)(1) of this section does not apply to any 16245
quantity of ephedrine product, phenylpropanolamine product, or 16246
pseudoephedrine product dispensed by a pharmacist pursuant to a 16247
valid prescription issued by a licensed health professional 16248
authorized to prescribe drugs. 16249

(C) Each retailer or terminal distributor of dangerous drugs 16250
that sells, offers to sell, holds for sale, delivers, or otherwise 16251
provides any ephedrine product, phenylpropanolamine product, or 16252
pseudoephedrine product to the public shall do all of the 16253
following: 16254

(1) Keep each ephedrine product, phenylpropanolamine product, 16255
or pseudoephedrine product in a secure, locked area in the place 16256
of business of the retailer or terminal distributor or, if the 16257
place of business is a pharmacy, behind the counter, so that no 16258
member of the public may procure or purchase the product without 16259
the direct assistance of a pharmacist or other authorized employee 16260
of the retailer or terminal distributor. 16261

(2) Prior to selling or providing any ephedrine product, 16262
phenylpropanolamine product, or pseudoephedrine product to any 16263
person, determine, by examination of a valid proof of age, that 16264
the purchaser or recipient is eighteen years of age or older. 16265

(D)(1) No retailer or terminal distributor of dangerous drugs 16266

that sells, offers to sell, holds for sale, delivers, or otherwise provides any ephedrine product, phenylpropanolamine product, or pseudoephedrine product to the public shall fail to comply with division (C)(1) of this section. 16267
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(E)(1) Except as provided in division (E)(2) of this section, no retailer or terminal distributor of dangerous drugs shall sell, offer to sell, hold for sale, deliver, or otherwise provide any ephedrine product, phenylpropanolamine product, or pseudoephedrine product to an individual that the retailer or terminal distributor knows or reasonably should know is under eighteen years of age. 16271
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(2) Division (E)(1) of this section does not apply to any of the following: 16277
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(a) A licensed health professional authorized to prescribe drugs or a pharmacist who dispenses, sells, or otherwise provides an ephedrine product, phenylpropanolamine product, or pseudoephedrine product to an individual under eighteen years of age; 16279
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(b) A parent or guardian of an individual under eighteen years of age who provides an ephedrine product, phenylpropanolamine product, or pseudoephedrine product to the individual; 16284
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(c) A person who, as authorized by the individual's parent or guardian, dispenses, sells, or otherwise provides an ephedrine product, phenylpropanolamine product, or pseudoephedrine product to an individual under eighteen years of age. 16288
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(F) 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 ephedrine product, phenylpropanolamine product, or pseudoephedrine product to any individual. 16292
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(G) Whoever violates this section is guilty of "illegal transactions in an ephedrine, phenylpropanolamine, or pseudoephedrine product." Illegal transactions in an ephedrine, phenylpropanolamine, or pseudoephedrine product in violation of division (B) of this section is a misdemeanor, and the offender shall be fined not more than three hundred fifty dollars. Except as otherwise provided in this division, illegal transactions in an ephedrine, phenylpropanolamine, or pseudoephedrine product in violation of division (B), (D), (E), or (F) of this section is a minor misdemeanor. If an offender who commits a violation of division (A), (D), (E), or (F) of this section previously has been convicted of or pleaded guilty to a violation of division (A), (B), (D), (E), or (F) of this section, illegal transactions in an ephedrine, phenylpropanolamine, or pseudoephedrine product in violation of division (A), (D), (E), or (F) of this section is a misdemeanor of the third degree.

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.

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
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: 16359

(a) In committing the offense, the offender caused physical 16360
harm to a person. 16361

(b) In committing the offense, the offender attempted to 16362
cause or made an actual threat of physical harm to a person with a 16363
deadly weapon. 16364

(c) In committing the offense, the offender attempted to 16365
cause or made an actual threat of physical harm to a person, and 16366
the offender previously was convicted of an offense that caused 16367
physical harm to a person. 16368

(d) The offender held a public office or position of trust 16369
and the offense related to that office or position; the offender's 16370
position obliged the offender to prevent the offense or to bring 16371
those committing it to justice; or the offender's professional 16372
reputation or position facilitated the offense or was likely to 16373
influence the future conduct of others. 16374

(e) The offender committed the offense for hire or as part of 16375
an organized criminal activity. 16376

(f) The offense is a sex offense that is a fourth or fifth 16377
degree felony violation of section 2907.03, 2907.04, 2907.05, 16378
2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the 16379
Revised Code. 16380

(g) The offender at the time of the offense was serving, or 16381
the offender previously had served, a prison term. 16382

(h) The offender committed the offense while under a 16383
community control sanction, while on probation, or while released 16384
from custody on a bond or personal recognizance. 16385

(i) The offender committed the offense while in possession of 16386
a firearm. 16387

(2)(a) If the court makes a finding described in division 16388

(B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this 16389
section and if the court, after considering the factors set forth 16390
in section 2929.12 of the Revised Code, finds that a prison term 16391
is consistent with the purposes and principles of sentencing set 16392
forth in section 2929.11 of the Revised Code and finds that the 16393
offender is not amenable to an available community control 16394
sanction, the court shall impose a prison term upon the offender. 16395

(b) Except as provided in division (E), (F), or (G) of this 16396
section, if the court does not make a finding described in 16397
division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of 16398
this section and if the court, after considering the factors set 16399
forth in section 2929.12 of the Revised Code, finds that a 16400
community control sanction or combination of community control 16401
sanctions is consistent with the purposes and principles of 16402
sentencing set forth in section 2929.11 of the Revised Code, the 16403
court shall impose a community control sanction or combination of 16404
community control sanctions upon the offender. 16405

(C) Except as provided in division (E), (F), or (G) of this 16406
section, in determining whether to impose a prison term as a 16407
sanction for a felony of the third degree or a felony drug offense 16408
that is a violation of a provision of Chapter 2925. of the Revised 16409
Code and that is specified as being subject to this division for 16410
purposes of sentencing, the sentencing court shall comply with the 16411
purposes and principles of sentencing under section 2929.11 of the 16412
Revised Code and with section 2929.12 of the Revised Code. 16413

(D) Except as provided in division (E) or (F) of this 16414
section, for a felony of the first or second degree and for a 16415
felony drug offense that is a violation of any provision of 16416
Chapter 2925., 3719., or 4729. of the Revised Code for which a 16417
presumption in favor of a prison term is specified as being 16418
applicable, it is presumed that a prison term is necessary in 16419
order to comply with the purposes and principles of sentencing 16420

under section 2929.11 of the Revised Code. Notwithstanding the
presumption established under this division, the sentencing court
may impose a community control sanction or a combination of
community control sanctions instead of a prison term on an
offender for a felony of the first or second degree or for a
felony drug offense that is a violation of any provision of
Chapter 2925., 3719., or 4729. of the Revised Code for which a
presumption in favor of a prison term is specified as being
applicable if it makes both of the following findings:

(1) A community control sanction or a combination of
community control sanctions would adequately punish the offender
and protect the public from future crime, because the applicable
factors under section 2929.12 of the Revised Code indicating a
lesser likelihood of recidivism outweigh the applicable factors
under that section indicating a greater likelihood of recidivism.

(2) A community control sanction or a combination of
community control sanctions would not demean the seriousness of
the offense, because one or more factors under section 2929.12 of
the Revised Code that indicate that the offender's conduct was
less serious than conduct normally constituting the offense are
applicable, and they outweigh the applicable factors under that
section that indicate that the offender's conduct was more serious
than conduct normally constituting the offense.

(E)(1) Except as provided in division (F) of this section,
for any drug offense that is a violation of any provision of
Chapter 2925. of the Revised Code and that is a felony of the
third, fourth, or fifth degree, the applicability of a presumption
under division (D) of this section in favor of a prison term or of
division (B) or (C) of this section in determining whether to
impose a prison term for the offense shall be determined as
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06,
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the

Revised Code, whichever is applicable regarding the violation. 16453

(2) If an offender who was convicted of or pleaded guilty to 16454
a felony violates the conditions of a community control sanction 16455
imposed for the offense solely by reason of producing positive 16456
results on a drug test, the court, as punishment for the violation 16457
of the sanction, shall not order that the offender be imprisoned 16458
unless the court determines on the record either of the following: 16459

(a) The offender had been ordered as a sanction for the 16460
felony to participate in a drug treatment program, in a drug 16461
education program, or in narcotics anonymous or a similar program, 16462
and the offender continued to use illegal drugs after a reasonable 16463
period of participation in the program. 16464

(b) The imprisonment of the offender for the violation is 16465
consistent with the purposes and principles of sentencing set 16466
forth in section 2929.11 of the Revised Code. 16467

(F) Notwithstanding divisions (A) to (E) of this section, the 16468
court shall impose a prison term or terms under sections 2929.02 16469
to 2929.06, section 2929.14, or section 2971.03 of the Revised 16470
Code, and except as specifically provided in section 2929.20 ~~or~~, 16471
2967.191, or 2967.24 of the Revised Code or when parole is 16472
authorized for the offense under section 2967.13 of the Revised 16473
Code, the terms shall not ~~reduce the terms~~ be reduced pursuant to 16474
section 2929.20, section 2967.193, or any other provision of 16475
Chapter 2967. or Chapter 5120. of the Revised Code for any of the 16476
following offenses: 16477

(1) Aggravated murder when death is not imposed or murder; 16478

(2) Any rape, regardless of whether force was involved and 16479
regardless of the age of the victim, or an attempt to commit rape 16480
if, had the offender completed the rape that was attempted, the 16481
offender would have been subject to a sentence of life 16482
imprisonment or life imprisonment without parole for the rape; 16483

(3) Gross sexual imposition or sexual battery, if the victim 16484
is under thirteen years of age, if the offender previously was 16485
convicted of or pleaded guilty to rape, the former offense of 16486
felonious sexual penetration, gross sexual imposition, or sexual 16487
battery, and if the victim of the previous offense was under 16488
thirteen years of age; 16489

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 16490
2903.11, 2903.12, or 2903.13 of the Revised Code if the section 16491
requires the imposition of a prison term; 16492

(5) A first, second, or third degree felony drug offense for 16493
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 16494
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 16495
4729.99 of the Revised Code, whichever is applicable regarding the 16496
violation, requires the imposition of a mandatory prison term; 16497

(6) Any offense that is a first or second degree felony and 16498
that is not set forth in division (F)(1), (2), (3), or (4) of this 16499
section, if the offender previously was convicted of or pleaded 16500
guilty to aggravated murder, murder, any first or second degree 16501
felony, or an offense under an existing or former law of this 16502
state, another state, or the United States that is or was 16503
substantially equivalent to one of those offenses; 16504

(7) Any offense that is a third degree felony and that is 16505
listed in division (DD)(1) of section 2929.01 of the Revised Code 16506
if the offender previously was convicted of or pleaded guilty to 16507
any offense that is listed in division (DD)(2)(a)(i) or (ii) of 16508
section 2929.01 of the Revised Code; 16509

(8) Any offense, other than a violation of section 2923.12 of 16510
the Revised Code, that is a felony, if the offender had a firearm 16511
on or about the offender's person or under the offender's control 16512
while committing the felony, with respect to a portion of the 16513
sentence imposed pursuant to division (D)(1)(a) of section 2929.14 16514

of the Revised Code for having the firearm; 16515

(9) Any offense of violence that is a felony, if the offender 16516
wore or carried body armor while committing the felony offense of 16517
violence, with respect to the portion of the sentence imposed 16518
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 16519
Code for wearing or carrying the body armor; 16520

(10) Corrupt activity in violation of section 2923.32 of the 16521
Revised Code when the most serious offense in the pattern of 16522
corrupt activity that is the basis of the offense is a felony of 16523
the first degree; 16524

(11) Any violent sex offense or designated homicide, assault, 16525
or kidnapping offense if, in relation to that offense, the 16526
offender is adjudicated a sexually violent predator; 16527

(12) A violation of division (A)(1) or (2) of section 2921.36 16528
of the Revised Code, or a violation of division (C) of that 16529
section involving an item listed in division (A)(1) or (2) of that 16530
section, if the offender is an officer or employee of the 16531
department of rehabilitation and correction; 16532

(13) A violation of division (A)(1) or (2) of section 2903.06 16533
of the Revised Code if the victim of the offense is a peace 16534
officer, as defined in section 2935.01 of the Revised Code, with 16535
respect to the portion of the sentence imposed pursuant to 16536
division (D)(5) of section 2929.14 of the Revised Code; 16537

(14) A violation of division (A)(1) or (2) of section 2903.06 16538
of the Revised Code if the offender has been convicted of or 16539
pleaded guilty to three or more violations of division (A) or (B) 16540
of section 4511.19 of the Revised Code or an equivalent offense, 16541
as defined in section 2941.1415 of the Revised Code, or three or 16542
more violations of any combination of those divisions and 16543
offenses, with respect to the portion of the sentence imposed 16544
pursuant to division (D)(6) of section 2929.14 of the Revised 16545

Code. 16546

(G) Notwithstanding divisions (A) to (E) of this section, if 16547
an offender is being sentenced for a fourth degree felony OVI 16548
offense or for a third degree felony OVI offense, the court shall 16549
impose upon the offender a mandatory term of local incarceration 16550
or a mandatory prison term in accordance with the following: 16551

(1) If the offender is being sentenced for a fourth degree 16552
felony OVI offense and if the offender has not been convicted of 16553
and has not pleaded guilty to a specification of the type 16554
described in section 2941.1413 of the Revised Code, the court may 16555
impose upon the offender a mandatory term of local incarceration 16556
of sixty days or one hundred twenty days as specified in division 16557
(G)(1)(d) of section 4511.19 of the Revised Code. ~~The court~~ 16558
Subject to section 2967.24 of the Revised Code, the term shall not 16559
~~reduce the term~~ be reduced pursuant to section 2929.20, 2967.193, 16560
or any other provision of the Revised Code. The court that imposes 16561
a mandatory term of local incarceration under this division shall 16562
specify whether the term is to be served in a jail, a 16563
community-based correctional facility, a halfway house, or an 16564
alternative residential facility, and the offender shall serve the 16565
term in the type of facility specified by the court. A mandatory 16566
term of local incarceration imposed under division (G)(1) of this 16567
section is not subject to extension under section 2967.11 of the 16568
Revised Code, to a period of post-release control under section 16569
2967.28 of the Revised Code, or to any other Revised Code 16570
provision that pertains to a prison term except as provided in 16571
division (A)(1) of this section. 16572

(2) If the offender is being sentenced for a third degree 16573
felony OVI offense, or if the offender is being sentenced for a 16574
fourth degree felony OVI offense and the court does not impose a 16575
mandatory term of local incarceration under division (G)(1) of 16576
this section, the court shall impose upon the offender a mandatory 16577

prison term of one, two, three, four, or five years if the
offender also is convicted of or also pleads guilty to a
specification of the type described in section 2941.1413 of the
Revised Code or shall impose upon the offender a mandatory prison
term of sixty days or one hundred twenty days as specified in
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code
if the offender has not been convicted of and has not pleaded
guilty to a specification of that type. ~~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 offender shall serve the
one-, two-, three-, four-, or five-year mandatory prison term
consecutively to and prior to the prison term imposed for the
underlying offense and consecutively to any other mandatory prison
term imposed in relation to the offense. In no case shall an
offender who once has been sentenced to a mandatory term of local
incarceration pursuant to division (G)(1) of this section for a
fourth degree felony OVI offense be sentenced to another mandatory
term of local incarceration under that division for any violation
of division (A) of section 4511.19 of the Revised Code. In
addition to the mandatory prison term described in division (G)(2)
of this section, the court may sentence the offender to a
community control sanction under section 2929.16 or 2929.17 of the
Revised Code, but the offender shall serve the prison term prior
to serving the community control sanction. The department of
rehabilitation and correction may place an offender sentenced to a
mandatory prison term under this division in an intensive program
prison established pursuant to section 5120.033 of the Revised
Code if the department gave the sentencing judge prior notice of
its intent to place the offender in an intensive program prison
established under that section and if the judge did not notify the
department that the judge disapproved the placement. Upon the
establishment of the initial intensive program prison pursuant to

section 5120.033 of the Revised Code that is privately operated 16611
and managed by a contractor pursuant to a contract entered into 16612
under section 9.06 of the Revised Code, both of the following 16613
apply: 16614

(a) The department of rehabilitation and correction shall 16615
make a reasonable effort to ensure that a sufficient number of 16616
offenders sentenced to a mandatory prison term under this division 16617
are placed in the privately operated and managed prison so that 16618
the privately operated and managed prison has full occupancy. 16619

(b) Unless the privately operated and managed prison has full 16620
occupancy, the department of rehabilitation and correction shall 16621
not place any offender sentenced to a mandatory prison term under 16622
this division in any intensive program prison established pursuant 16623
to section 5120.033 of the Revised Code other than the privately 16624
operated and managed prison. 16625

(H) If an offender is being sentenced for a sexually oriented 16626
offense committed on or after January 1, 1997, the judge shall 16627
require the offender to submit to a DNA specimen collection 16628
procedure pursuant to section 2901.07 of the Revised Code if 16629
either of the following applies: 16630

(1) The offense was a violent sex offense or a designated 16631
homicide, assault, or kidnapping offense and, in relation to that 16632
offense, the offender was adjudicated a sexually violent predator. 16633

(2) The judge imposing sentence for the sexually oriented 16634
offense determines pursuant to division (B) of section 2950.09 of 16635
the Revised Code that the offender is a sexual predator. 16636

(I) If an offender is being sentenced for a sexually oriented 16637
offense that is not a registration-exempt sexually oriented 16638
offense or for a child-victim oriented offense committed on or 16639
after January 1, 1997, the judge shall include in the sentence a 16640
summary of the offender's duties imposed under sections 2950.04, 16641

2950.041, 2950.05, and 2950.06 of the Revised Code and the
duration of the duties. The judge shall inform the offender, at
the time of sentencing, of those duties and of their duration and,
if required under division (A)(2) of section 2950.03 of the
Revised Code, shall perform the duties specified in that section.

(J)(1) Except as provided in division (J)(2) of this section,
when considering sentencing factors under this section in relation
to an offender who is convicted of or pleads guilty to an attempt
to commit an offense in violation of section 2923.02 of the
Revised Code, the sentencing court shall consider the factors
applicable to the felony category of the violation of section
2923.02 of the Revised Code instead of the factors applicable to
the felony category of the offense attempted.

(2) When considering sentencing factors under this section in
relation to an offender who is convicted of or pleads guilty to an
attempt to commit a drug abuse offense for which the penalty is
determined by the amount or number of unit doses of the controlled
substance involved in the drug abuse offense, the sentencing court
shall consider the factors applicable to the felony category that
the drug abuse offense attempted would be if that drug abuse
offense had been committed and had involved an amount or number of
unit doses of the controlled substance that is within the next
lower range of controlled substance amounts than was involved in
the attempt.

(K) As used in this section, "drug abuse offense" has the
same meaning as in section 2925.01 of the Revised Code.

Sec. 2929.14. (A) Except as provided in division (C), (D)(1),
(D)(2), (D)(3), (D)(4), (D)(5), (D)(6), or (G) of this section and
except in relation to an offense for which a sentence of death or
life imprisonment is to be imposed, if the court imposing a
sentence upon an offender for a felony elects or is required to

impose a prison term on the offender pursuant to this chapter, the 16673
court shall impose a definite prison term that shall be one of the 16674
following: 16675

(1) For a felony of the first degree, the prison term shall 16676
be three, four, five, six, seven, eight, nine, or ten years. 16677

(2) For a felony of the second degree, the prison term shall 16678
be two, three, four, five, six, seven, or eight years. 16679

(3) For a felony of the third degree, the prison term shall 16680
be one, two, three, four, or five years. 16681

(4) For a felony of the fourth degree, the prison term shall 16682
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 16683
fourteen, fifteen, sixteen, seventeen, or eighteen months. 16684

(5) For a felony of the fifth degree, the prison term shall 16685
be six, seven, eight, nine, ten, eleven, or twelve months. 16686

(B) Except as provided in division (C), (D)(1), (D)(2), 16687
(D)(3), (D)(5), (D)(6), or (G) of this section, in section 2907.02 16688
of the Revised Code, or in Chapter 2925. of the Revised Code, if 16689
the court imposing a sentence upon an offender for a felony elects 16690
or is required to impose a prison term on the offender, the court 16691
shall impose the shortest prison term authorized for the offense 16692
pursuant to division (A) of this section, unless one or more of 16693
the following applies: 16694

(1) The offender was serving a prison term at the time of the 16695
offense, or the offender previously had served a prison term. 16696

(2) The court finds on the record that the shortest prison 16697
term will demean the seriousness of the offender's conduct or will 16698
not adequately protect the public from future crime by the 16699
offender or others. 16700

(C) Except as provided in division (G) of this section or in 16701
Chapter 2925. of the Revised Code, the court imposing a sentence 16702

upon an offender for a felony may impose the longest prison term 16703
authorized for the offense pursuant to division (A) of this 16704
section only upon offenders who committed the worst forms of the 16705
offense, upon offenders who pose the greatest likelihood of 16706
committing future crimes, upon certain major drug offenders under 16707
division (D)(3) of this section, and upon certain repeat violent 16708
offenders in accordance with division (D)(2) of this section. 16709

(D)(1)(a) Except as provided in division (D)(1)(e) of this 16710
section, if an offender who is convicted of or pleads guilty to a 16711
felony also is convicted of or pleads guilty to a specification of 16712
the type described in section 2941.141, 2941.144, or 2941.145 of 16713
the Revised Code, the court shall impose on the offender one of 16714
the following prison terms: 16715

(i) A prison term of six years if the specification is of the 16716
type described in section 2941.144 of the Revised Code that 16717
charges the offender with having a firearm that is an automatic 16718
firearm or that was equipped with a firearm muffler or silencer on 16719
or about the offender's person or under the offender's control 16720
while committing the felony; 16721

(ii) A prison term of three years if the specification is of 16722
the type described in section 2941.145 of the Revised Code that 16723
charges the offender with having a firearm on or about the 16724
offender's person or under the offender's control while committing 16725
the offense and displaying the firearm, brandishing the firearm, 16726
indicating that the offender possessed the firearm, or using it to 16727
facilitate the offense; 16728

(iii) A prison term of one year if the specification is of 16729
the type described in section 2941.141 of the Revised Code that 16730
charges the offender with having a firearm on or about the 16731
offender's person or under the offender's control while committing 16732
the felony. 16733

(b) If a court imposes a prison term on an offender under 16734
division (D)(1)(a) of this section, subject to section 2967.24 of 16735
the Revised Code, the prison term shall not be reduced pursuant to 16736
section 2929.20, section 2967.193, or any other provision of 16737
Chapter 2967. or Chapter 5120. of the Revised Code. A court shall 16738
not impose more than one prison term on an offender under division 16739
(D)(1)(a) of this section for felonies committed as part of the 16740
same act or transaction. 16741

(c) Except as provided in division (D)(1)(e) of this section, 16742
if an offender who is convicted of or pleads guilty to a violation 16743
of section 2923.161 of the Revised Code or to a felony that 16744
includes, as an essential element, purposely or knowingly causing 16745
or attempting to cause the death of or physical harm to another, 16746
also is convicted of or pleads guilty to a specification of the 16747
type described in section 2941.146 of the Revised Code that 16748
charges the offender with committing the offense by discharging a 16749
firearm from a motor vehicle other than a manufactured home, the 16750
court, after imposing a prison term on the offender for the 16751
violation of section 2923.161 of the Revised Code or for the other 16752
felony offense under division (A), (D)(2), or (D)(3) of this 16753
section, shall impose an additional prison term of five years upon 16754
the offender that, subject to section 2967.24 of the Revised Code, 16755
shall not be reduced pursuant to section 2929.20, section 16756
2967.193, or any other provision of Chapter 2967. or Chapter 5120. 16757
of the Revised Code. A court shall not impose more than one 16758
additional prison term on an offender under division (D)(1)(c) of 16759
this section for felonies committed as part of the same act or 16760
transaction. If a court imposes an additional prison term on an 16761
offender under division (D)(1)(c) of this section relative to an 16762
offense, the court also shall impose a prison term under division 16763
(D)(1)(a) of this section relative to the same offense, provided 16764
the criteria specified in that division for imposing an additional 16765

prison term are satisfied relative to the offender and the offense. 16766
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(d) If an offender who is convicted of or pleads guilty to an offense of violence that is a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.1411 of the Revised Code that charges the offender with wearing or carrying body armor while committing the felony offense of violence, the court shall impose on the offender a prison term of two years. ~~The~~ Subject to section 2967.24 of the Revised Code, the prison term so imposed 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)(1)(d) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term under division (D)(1)(a) or (c) of this section, the court is not precluded from imposing an additional prison term under division (D)(1)(d) of this section. 16768
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(e) The court shall not impose any of the prison terms described in division (D)(1)(a) of this section or any of the additional prison terms described in division (D)(1)(c) of this section upon an offender for a violation of section 2923.12 or 2923.123 of the Revised Code. The court shall not impose any of the prison terms described in division (D)(1)(a) of this section or any of the additional prison terms described in division (D)(1)(c) of this section upon an offender for a violation of section 2923.13 of the Revised Code unless all of the following apply: 16784
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(i) The offender previously has been convicted of aggravated murder, murder, or any felony of the first or second degree. 16794
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(ii) Less than five years have passed since the offender was released from prison or post-release control, whichever is later, 16796
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for the prior offense. 16798

(f) If an offender is convicted of or pleads guilty to a 16799
felony that includes, as an essential element, causing or 16800
attempting to cause the death of or physical harm to another and 16801
also is convicted of or pleads guilty to a specification of the 16802
type described in section 2941.1412 of the Revised Code that 16803
charges the offender with committing the offense by discharging a 16804
firearm at a peace officer as defined in section 2935.01 of the 16805
Revised Code or a corrections officer as defined in section 16806
2941.1412 of the Revised Code, the court, after imposing a prison 16807
term on the offender for the felony offense under division (A), 16808
(D)(2), or (D)(3) of this section, shall impose an additional 16809
prison term of seven years upon the offender that, subject to 16810
section 2967.24 of the Revised Code, shall not be reduced pursuant 16811
to section 2929.20, section 2967.193, or any other provision of 16812
Chapter 2967. or Chapter 5120. of the Revised Code. A court shall 16813
not impose more than one additional prison term on an offender 16814
under division (D)(1)(f) of this section for felonies committed as 16815
part of the same act or transaction. If a court imposes an 16816
additional prison term on an offender under division (D)(1)(f) of 16817
this section relative to an offense, the court shall not impose a 16818
prison term under division (D)(1)(a) or (c) of this section 16819
relative to the same offense. 16820

(2)(a) If an offender who is convicted of or pleads guilty to 16821
a felony also is convicted of or pleads guilty to a specification 16822
of the type described in section 2941.149 of the Revised Code that 16823
the offender is a repeat violent offender, the court shall impose 16824
a prison term from the range of terms authorized for the offense 16825
under division (A) of this section that may be the longest term in 16826
the range and that, subject to section 2967.24 of the Revised 16827
Code, shall not be reduced pursuant to section 2929.20, section 16828
2967.193, or any other provision of Chapter 2967. or Chapter 5120. 16829

of the Revised Code. If the court finds that the repeat violent 16830
offender, in committing the offense, caused any physical harm that 16831
carried a substantial risk of death to a person or that involved 16832
substantial permanent incapacity or substantial permanent 16833
disfigurement of a person, the court shall impose the longest 16834
prison term from the range of terms authorized for the offense 16835
under division (A) of this section. 16836

(b) If the court imposing a prison term on a repeat violent 16837
offender imposes the longest prison term from the range of terms 16838
authorized for the offense under division (A) of this section, the 16839
court may impose on the offender an additional definite prison 16840
term of one, two, three, four, five, six, seven, eight, nine, or 16841
ten years if the court finds that both of the following apply with 16842
respect to the prison terms imposed on the offender pursuant to 16843
division (D)(2)(a) of this section and, if applicable, divisions 16844
(D)(1) and (3) of this section: 16845

(i) The terms so imposed are inadequate to punish the 16846
offender and protect the public from future crime, because the 16847
applicable factors under section 2929.12 of the Revised Code 16848
indicating a greater likelihood of recidivism outweigh the 16849
applicable factors under that section indicating a lesser 16850
likelihood of recidivism. 16851

(ii) The terms so imposed are demeaning to the seriousness of 16852
the offense, because one or more of the factors under section 16853
2929.12 of the Revised Code indicating that the offender's conduct 16854
is more serious than conduct normally constituting the offense are 16855
present, and they outweigh the applicable factors under that 16856
section indicating that the offender's conduct is less serious 16857
than conduct normally constituting the offense. 16858

(3)(a) Except when an offender commits a violation of section 16859
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 16860
the violation is life imprisonment or commits a violation of 16861

section 2903.02 of the Revised Code, if the offender commits a
violation of section 2925.03 or 2925.11 of the Revised Code and
that section classifies the offender as a major drug offender and
requires the imposition of a ten-year prison term on the offender,
if the offender commits a felony violation of section 2925.02,
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161,
4729.37, or 4729.61, division (C) or (D) of section 3719.172,
division (C) of section 4729.51, or division (J) of section
4729.54 of the Revised Code that includes the sale, offer to sell,
or possession of a schedule I or II controlled substance, with the
exception of marihuana, and the court imposing sentence upon the
offender finds that the offender is guilty of a specification of
the type described in section 2941.1410 of the Revised Code
charging that the offender is a major drug offender, if the court
imposing sentence upon an offender for a felony finds that the
offender is guilty of corrupt activity with the most serious
offense in the pattern of corrupt activity being a felony of the
first degree, or if the offender is guilty of an attempted
violation of section 2907.02 of the Revised Code and, had the
offender completed the violation of section 2907.02 of the Revised
Code that was attempted, the offender would have been subject to a
sentence of life imprisonment or life imprisonment without parole
for the violation of section 2907.02 of the Revised Code, the
court shall impose upon the offender for the felony violation a
ten-year prison term that, subject to section 2967.24 of the
Revised Code, cannot be reduced pursuant to section 2929.20 or
Chapter 2967. or 5120. of the Revised Code.

(b) The court imposing a prison term on an offender under
division (D)(3)(a) of this section may impose an additional prison
term of one, two, three, four, five, six, seven, eight, nine, or
ten years, if the court, with respect to the term imposed under
division (D)(3)(a) of this section and, if applicable, divisions

(D)(1) and (2) of this section, makes both of the findings set forth in divisions (D)(2)(b)(i) and (ii) of this section. 16894
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(4) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the sentencing court shall impose upon the offender a mandatory prison term in accordance with that division. In addition to the mandatory prison term, if the offender is being sentenced for a fourth degree felony OVI offense, the court, notwithstanding division (A)(4) of this section, may sentence the offender to a definite prison term of not less than six months and not more than thirty months, and if the offender is being sentenced for a third degree felony OVI offense, the sentencing court may sentence the offender to an additional prison term of any duration specified in division (A)(3) of this section. In either case, the additional prison term imposed shall be reduced by the sixty or one hundred twenty days imposed upon the offender as the mandatory prison term. The total of the additional prison term imposed under division (D)(4) of this section plus the sixty or one hundred twenty days imposed as the mandatory prison term shall equal a definite term in the range of six months to thirty months for a fourth degree felony OVI offense and shall equal one of the authorized prison terms specified in division (A)(3) of this section for a third degree felony OVI offense. If the court imposes an additional prison term under division (D)(4) of this section, the offender shall serve the additional prison term after the offender has served the mandatory prison term required for the offense. In addition to the mandatory prison term or mandatory and additional prison term imposed as described in division (D)(4) of this section, the court also may sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised Code, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction. 16896
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If the offender is being sentenced for a fourth degree felony 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.

(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.

(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 16958
pursuant to section 2929.20, section 2967.193, or any other 16959
provision of Chapter 2967. or Chapter 5120. of the Revised Code. A 16960
court shall not impose more than one prison term on an offender 16961
under division (D)(6) of this section for felonies committed as 16962
part of the same act. 16963

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a 16964
mandatory prison term is imposed upon an offender pursuant to 16965
division (D)(1)(a) of this section for having a firearm on or 16966
about the offender's person or under the offender's control while 16967
committing a felony, if a mandatory prison term is imposed upon an 16968
offender pursuant to division (D)(1)(c) of this section for 16969
committing a felony specified in that division by discharging a 16970
firearm from a motor vehicle, or if both types of mandatory prison 16971
terms are imposed, the offender shall serve any mandatory prison 16972
term imposed under either division consecutively to any other 16973
mandatory prison term imposed under either division or under 16974
division (D)(1)(d) of this section, consecutively to and prior to 16975
any prison term imposed for the underlying felony pursuant to 16976
division (A), (D)(2), or (D)(3) of this section or any other 16977
section of the Revised Code, and consecutively to any other prison 16978
term or mandatory prison term previously or subsequently imposed 16979
upon the offender. 16980

(b) If a mandatory prison term is imposed upon an offender 16981
pursuant to division (D)(1)(d) of this section for wearing or 16982
carrying body armor while committing an offense of violence that 16983
is a felony, the offender shall serve the mandatory term so 16984
imposed consecutively to any other mandatory prison term imposed 16985
under that division or under division (D)(1)(a) or (c) of this 16986
section, consecutively to and prior to any prison term imposed for 16987
the underlying felony under division (A), (D)(2), or (D)(3) of 16988
this section or any other section of the Revised Code, and 16989

consecutively to any other prison term or mandatory prison term 16990
previously or subsequently imposed upon the offender. 16991

(c) If a mandatory prison term is imposed upon an offender 16992
pursuant to division (D)(1)(f) of this section, the offender shall 16993
serve the mandatory prison term so imposed consecutively to and 16994
prior to any prison term imposed for the underlying felony under 16995
division (A), (D)(2), or (D)(3) of this section or any other 16996
section of the Revised Code, and consecutively to any other prison 16997
term or mandatory prison term previously or subsequently imposed 16998
upon the offender. 16999

(2) If an offender who is an inmate in a jail, prison, or 17000
other residential detention facility violates section 2917.02, 17001
2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender 17002
who is under detention at a detention facility commits a felony 17003
violation of section 2923.131 of the Revised Code, or if an 17004
offender who is an inmate in a jail, prison, or other residential 17005
detention facility or is under detention at a detention facility 17006
commits another felony while the offender is an escapee in 17007
violation of section 2921.34 of the Revised Code, any prison term 17008
imposed upon the offender for one of those violations shall be 17009
served by the offender consecutively to the prison term or term of 17010
imprisonment the offender was serving when the offender committed 17011
that offense and to any other prison term previously or 17012
subsequently imposed upon the offender. 17013

(3) If a prison term is imposed for a violation of division 17014
(B) of section 2911.01 of the Revised Code, a violation of 17015
division (A) of section 2913.02 of the Revised Code in which the 17016
stolen property is a firearm or dangerous ordnance, or a felony 17017
violation of division (B) of section 2921.331 of the Revised Code, 17018
the offender shall serve that prison term consecutively to any 17019
other prison term or mandatory prison term previously or 17020
subsequently imposed upon the offender. 17021

(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
mandatory prison term imposed pursuant to division (D)(5) of this
section consecutively to and prior to the mandatory prison term
imposed pursuant to division (D)(6) of this section and
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.

(6) When consecutive prison terms are imposed pursuant to
division (E)(1), (2), (3), (4), or (5) of this section, the term
to be served is the aggregate of all of the terms so imposed.

(F) If a court imposes a prison term of a type described in
division (B) of section 2967.28 of the Revised Code, it shall
include in the sentence a requirement that the offender be subject
to a period of post-release control after the offender's release
from imprisonment, in accordance with that division. If a court
imposes a prison term of a type described in division (C) of that
section, it shall include in the sentence a requirement that the
offender be subject to a period of post-release control after the
offender's release from imprisonment, in accordance with that
division, if the parole board determines that a period of
post-release control is necessary.

(G) If a person is convicted of or pleads guilty to a violent
sex offense or a designated homicide, assault, or kidnapping
offense and, in relation to that offense, the offender is
adjudicated a sexually violent predator, the court shall impose
sentence upon the offender in accordance with section 2971.03 of
the Revised Code, and Chapter 2971. of the Revised Code applies
regarding the prison term or term of life imprisonment without
parole imposed upon the offender and the service of that term of
imprisonment.

(H) If a person who has been convicted of or pleaded guilty

to a felony is sentenced to a prison term or term of imprisonment 17084
under this section, sections 2929.02 to 2929.06 of the Revised 17085
Code, section 2971.03 of the Revised Code, or any other provision 17086
of law, section 5120.163 of the Revised Code applies regarding the 17087
person while the person is confined in a state correctional 17088
institution. 17089

(I) If an offender who is convicted of or pleads guilty to a 17090
felony that is an offense of violence also is convicted of or 17091
pleads guilty to a specification of the type described in section 17092
2941.142 of the Revised Code that charges the offender with having 17093
committed the felony while participating in a criminal gang, the 17094
court shall impose upon the offender an additional prison term of 17095
one, two, or three years. 17096

(J) If an offender who is convicted of or pleads guilty to 17097
aggravated murder, murder, or a felony of the first, second, or 17098
third degree that is an offense of violence also is convicted of 17099
or pleads guilty to a specification of the type described in 17100
section 2941.143 of the Revised Code that charges the offender 17101
with having committed the offense in a school safety zone or 17102
towards a person in a school safety zone, the court shall impose 17103
upon the offender an additional prison term of two years. The 17104
offender shall serve the additional two years consecutively to and 17105
prior to the prison term imposed for the underlying offense. 17106

(K) At the time of sentencing, the court may recommend the 17107
offender for placement in a program of shock incarceration under 17108
section 5120.031 of the Revised Code or for placement in an 17109
intensive program prison under section 5120.032 of the Revised 17110
Code, disapprove placement of the offender in a program of shock 17111
incarceration or an intensive program prison of that nature, or 17112
make no recommendation on placement of the offender. In no case 17113
shall the department of rehabilitation and correction place the 17114
offender in a program or prison of that nature unless the 17115

department determines as specified in section 5120.031 or 5120.032 17116
of the Revised Code, whichever is applicable, that the offender is 17117
eligible for the placement. 17118

If the court disapproves placement of the offender in a 17119
program or prison of that nature, the department of rehabilitation 17120
and correction shall not place the offender in any program of 17121
shock incarceration or intensive program prison. 17122

If the court recommends placement of the offender in a 17123
program of shock incarceration or in an intensive program prison, 17124
and if the offender is subsequently placed in the recommended 17125
program or prison, the department shall notify the court of the 17126
placement and shall include with the notice a brief description of 17127
the placement. 17128

If the court recommends placement of the offender in a 17129
program of shock incarceration or in an intensive program prison 17130
and the department does not subsequently place the offender in the 17131
recommended program or prison, the department shall send a notice 17132
to the court indicating why the offender was not placed in the 17133
recommended program or prison. 17134

If the court does not make a recommendation under this 17135
division with respect to an offender and if the department 17136
determines as specified in section 5120.031 or 5120.032 of the 17137
Revised Code, whichever is applicable, that the offender is 17138
eligible for placement in a program or prison of that nature, the 17139
department shall screen the offender and determine if there is an 17140
available program of shock incarceration or an intensive program 17141
prison for which the offender is suited. If there is an available 17142
program of shock incarceration or an intensive program prison for 17143
which the offender is suited, the department shall notify the 17144
court of the proposed placement of the offender as specified in 17145
section 5120.031 or 5120.032 of the Revised Code and shall include 17146

with the notice a brief description of the placement. The court 17147
shall have ten days from receipt of the notice to disapprove the 17148
placement. 17149

Sec. 2967.13. (A) Except as provided in division (G) of this 17150
section, a prisoner serving a sentence of imprisonment for life 17151
for an offense committed on or after July 1, 1996, is not entitled 17152
to any earned credit under section 2967.193 of the Revised Code 17153
and becomes eligible for parole as follows: 17154

(1) If a sentence of imprisonment for life was imposed for 17155
the offense of murder, at the expiration of the prisoner's minimum 17156
term; 17157

(2) If a sentence of imprisonment for life with parole 17158
eligibility after serving twenty years of imprisonment was imposed 17159
pursuant to section 2929.022 or 2929.03 of the Revised Code, after 17160
serving a term of twenty years; 17161

(3) If a sentence of imprisonment for life with parole 17162
eligibility after serving twenty-five full years of imprisonment 17163
was imposed pursuant to section 2929.022 or 2929.03 of the Revised 17164
Code, after serving a term of twenty-five full years; 17165

(4) If a sentence of imprisonment for life with parole 17166
eligibility after serving thirty full years of imprisonment was 17167
imposed pursuant to section 2929.022 or 2929.03 of the Revised 17168
Code, after serving a term of thirty full years; 17169

(5) If a sentence of imprisonment for life was imposed for 17170
rape, after serving a term of ten full years' imprisonment; 17171

(6) If a sentence of imprisonment for life with parole 17172
eligibility after serving fifteen years of imprisonment was 17173
imposed for a violation of section 2927.24 of the Revised Code, 17174
after serving a term of fifteen years. 17175

(B) Except as provided in division (G) of this section, a 17176

prisoner serving a sentence of imprisonment for life with parole 17177
eligibility after serving twenty years of imprisonment or a 17178
sentence of imprisonment for life with parole eligibility after 17179
serving twenty-five full years or thirty full years of 17180
imprisonment imposed pursuant to section 2929.022 or 2929.03 of 17181
the Revised Code for an offense committed on or after July 1, 17182
1996, consecutively to any other term of imprisonment, becomes 17183
eligible for parole after serving twenty years, twenty full years, 17184
or thirty full years, as applicable, as to each such sentence of 17185
life imprisonment, which shall not be reduced for earned credits 17186
under section 2967.193 of the Revised Code, plus the term or terms 17187
of the other sentences consecutively imposed or, if one of the 17188
other sentences is another type of life sentence with parole 17189
eligibility, the number of years before parole eligibility for 17190
that sentence. 17191

(C) Except as provided in division (G) of this section, a 17192
prisoner serving consecutively two or more sentences in which an 17193
indefinite term of imprisonment is imposed becomes eligible for 17194
parole upon the expiration of the aggregate of the minimum terms 17195
of the sentences. 17196

(D) Except as provided in division (G) of this section, a 17197
prisoner serving a term of imprisonment who is described in 17198
division (A) of section 2967.021 of the Revised Code becomes 17199
eligible for parole as described in that division or, if the 17200
prisoner is serving a definite term of imprisonment, shall be 17201
released as described in that division. 17202

(E) A prisoner serving a sentence of life imprisonment 17203
without parole imposed pursuant to section 2907.02 or section 17204
2929.03 or 2929.06 of the Revised Code is not eligible for parole 17205
and, subject to section 2967.24 of the Revised Code, shall be 17206
imprisoned until death. 17207

(F) A prisoner serving a stated prison term shall be released 17208
in accordance with section 2967.28 of the Revised Code. 17209

(G) A prisoner serving a prison term or term of life 17210
imprisonment without parole imposed pursuant to section 2971.03 of 17211
the Revised Code never becomes eligible for parole during that 17212
term of imprisonment. 17213

Sec. 2967.24. (A) There is hereby established within the 17214
office of the governor the medical hardship prisoner release 17215
commission, consisting of three members appointed by the governor. 17216
One member shall be a retired judge of a court of record of this 17217
state, one member shall be a member of the parole board or a staff 17218
member of the parole board, and one member shall be a physician. 17219
The governor shall make initial appointments to the commission not 17220
later than ninety days after the effective date of this section. 17221
The governor shall oversee the operation of the commission. 17222

Of the initial appointments to the commission, the member who 17223
is a retired judge shall be appointed for a term ending on 17224
December 31, 2008, the member who is a member or staff member of 17225
the parole board shall be appointed for a term ending on December 17226
31, 2007, and the member who is a physician shall be appointed for 17227
a term ending on December 31, 2006. Thereafter, terms of office of 17228
all the members shall be three years, with each term ending on the 17229
same day of the same month as did the term that it succeeds. 17230
Members may be reappointed. Any vacancy on the commission shall be 17231
filled in the same manner provided for the original appointment. A 17232
member appointed to fill a vacancy occurring prior to the 17233
expiration of the term for which that member's predecessor was 17234
appointed shall hold office as a member for the remainder of the 17235
predecessor's term. A member shall continue in office subsequent 17236
to the expiration of that member's term until that member's 17237
successor takes office or until a period of sixty days has 17238

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 17271
any other materials or information the commission requests that is 17272
relevant to the request for the medical hardship release from 17273
imprisonment. 17274

Upon receipt of a request from the director of rehabilitation 17275
and correction pursuant to this division, the commission promptly 17276
shall review the request and all other materials and information 17277
provided by the department and promptly shall determine whether it 17278
believes the specified prisoner should be granted a medical 17279
hardship release and whether the director's request should be 17280
approved or denied. Upon making its determinations, the commission 17281
promptly shall notify the director of rehabilitation and 17282
correction in writing of the determinations. If the commission 17283
approves the director's request, the department may grant the 17284
prisoner a medical hardship release from imprisonment. If the 17285
commission denies the director's request, the department shall not 17286
grant the prisoner a medical hardship release from imprisonment 17287
based on that request. If the commission denies the director's 17288
request, at any time after the denial, the director may file a 17289
subsequent request pursuant to this section for a medical hardship 17290
release for the prisoner, and the commission shall consider that 17291
request in accordance with this section. In no case shall a 17292
prisoner who is confined in a state correctional institution under 17293
a sentence of death be granted a medical hardship release from 17294
imprisonment pursuant to this section. 17295

(D) If the department of rehabilitation and correction grants 17296
a medical hardship release to a prisoner pursuant to this section, 17297
the department shall release the prisoner from imprisonment as if 17298
the prisoner's stated prison term had expired, and the prisoner is 17299
subject to a period of post-release control of up to three years 17300
after the prisoner's release from imprisonment. Before the 17301
department releases the prisoner from imprisonment, the department 17302

shall impose upon the prisoner one or more post-release control 17303
sanctions to apply during the prisoner's period of post-release 17304
control. The department shall impose the sanction or sanctions in 17305
accordance with division (D)(1) of section 2967.28 of the Revised 17306
Code, and divisions (D)(2) and (F) of that section apply to the 17307
prisoner after the prisoner's release from imprisonment and during 17308
the period of post-release control. When the prisoner has 17309
faithfully performed the conditions and obligations of the 17310
inmate's post-release control sanctions and has obeyed the rules 17311
and regulations adopted by the adult parole authority that apply 17312
to the released prisoner or has the period of post-release control 17313
terminated by a court pursuant to section 2929.141 of the Revised 17314
Code, division (B) of section 2967.16 of the Revised Code applies 17315
regarding the prisoner. 17316

(E)(1) The department of rehabilitation and correction shall 17317
specify by rule adopted under Chapter 119. of the Revised Code the 17318
medical hardships for which prisoners are eligible for potential 17319
release from imprisonment pursuant to this section. 17320

(2) Except as otherwise provided in this division, this 17321
section applies to all prisoners who are confined in a state 17322
correctional institution and who are eligible for potential 17323
release for a medical hardship under the rules adopted under 17324
division (E)(1) of this section, including prisoners serving a 17325
term of life imprisonment without parole and prisoners serving a 17326
mandatory prison term. This section does not apply to any prisoner 17327
who is confined in a state correctional institution under a 17328
sentence of death, and no medical hardship release from 17329
imprisonment shall be granted under this section to any prisoner 17330
who is so confined. 17331

(F) The procedures for medical hardship release of prisoners 17332
set forth in this section are separate from, and independent of, 17333
the procedures for parole of dying prisoners under section 2967.05 17334

of the Revised Code. 17335

(G) As used in this section, "physician" means a person who 17336
is authorized under Chapter 4731. of the Revised Code to practice 17337
medicine and surgery, osteopathic medicine and surgery, or a 17338
limited branch of medicine. 17339

Sec. 3107.10. (A) Notwithstanding section 3107.01 of the 17340
Revised Code, as used in this section, "agency" does not include a 17341
public children services agency. 17342

(B) An agency or attorney, whichever arranges a minor's 17343
adoption, shall file with the court a preliminary estimate 17344
accounting not later than the time the adoption petition for the 17345
minor is filed with the court. The agency or attorney, whichever 17346
arranges the adoption, also shall file a final accounting with the 17347
court before a final decree of adoption is issued or an 17348
interlocutory order of adoption is finalized for the minor. The 17349
agency or attorney shall complete and file accountings in a manner 17350
acceptable to the court. 17351

An accounting shall specify all disbursements of anything of 17352
value the petitioner, a person on the petitioner's behalf, and the 17353
agency or attorney made and has agreed to make in connection with 17354
the minor's permanent surrender under division (B) of section 17355
5103.15 of the Revised Code, placement under section 5103.16 of 17356
the Revised Code, and adoption under this chapter. The agency or 17357
attorney shall include in an accounting an itemization of each 17358
expense listed in division (C) of this section. The itemization of 17359
the expenses specified in divisions (C)(3) and (4) of this section 17360
shall show the amount the agency or attorney charged or is going 17361
to charge for the services and the actual cost to the agency or 17362
attorney of providing the services. An accounting shall indicate 17363
whether any expenses listed in division (C) of this section do not 17364
apply to the adoption proceeding for which the accounting is 17365

filed. 17366

The agency or attorney shall include with a preliminary 17367
estimate accounting and a final accounting a written statement 17368
signed by the petitioner that the petitioner has reviewed the 17369
accounting and attests to its accuracy. 17370

(C) No petitioner, person acting on a petitioner's behalf, or 17371
agency or attorney shall make or agree to make any disbursements 17372
in connection with the minor's permanent surrender, placement, or 17373
adoption other than for the following: 17374

(1) Physician expenses incurred on behalf of the birth mother 17375
or minor in connection with prenatal care, delivery, and 17376
confinement prior to or following the minor's birth; 17377

(2) Hospital or other medical facility expenses incurred on 17378
behalf of the birth mother or minor in connection with the minor's 17379
birth; 17380

(3) Expenses charged by the attorney arranging the adoption 17381
for providing legal services in connection with the placement and 17382
adoption, including expenses incurred by the attorney pursuant to 17383
sections 3107.031, 3107.081, 3107.082, 3107.09, and 3107.12 of the 17384
Revised Code; 17385

(4) Expenses charged by the agency arranging the adoption for 17386
providing services in connection with the permanent surrender and 17387
adoption, including the agency's application fee and the expenses 17388
incurred by the agency pursuant to sections 3107.031, 3107.09, 17389
3107.12, 5103.151, and 5103.152 of the Revised Code; 17390

(5) Temporary costs of routine maintenance and medical care 17391
for a minor required under section 5103.16 of the Revised Code if 17392
the person seeking to adopt the minor refuses to accept placement 17393
of the minor; 17394

(6) Guardian ad litem fees incurred on behalf of the minor in 17395

any court proceedings; 17396

(7) Foster care expenses incurred in connection with any 17397
temporary care and maintenance of the minor; 17398

(8) Court expenses incurred in connection with the minor's 17399
permanent surrender, placement, and adoption. 17400

(D) If a court determines from an accounting that an amount 17401
that is going to be disbursed for an expense listed in division 17402
(C) of this section is unreasonable, the court may order a 17403
reduction in the amount to be disbursed. If a court determines 17404
from an accounting that an unreasonable amount was disbursed for 17405
an expense listed in division (C) of this section, the court may 17406
order the person who received the disbursement to refund to the 17407
person who made the disbursement an amount the court orders. 17408

If a court determines from an accounting that a disbursement 17409
for an expense not permitted by division (C) of this section is 17410
going to be made, the court may issue an injunction prohibiting 17411
the disbursement. If a court determines from an accounting that a 17412
disbursement for an expense not permitted by division (C) of this 17413
section was made, the court may order the person who received the 17414
disbursement to return it to the person who made the disbursement. 17415

If a court determines that a final accounting does not 17416
completely report all the disbursements that are going to be made 17417
or have been made in connection with the minor's permanent 17418
surrender, placement, and adoption, the court shall order the 17419
agency or attorney to file with the court an accounting that 17420
completely reports all such disbursements. 17421

The agency or attorney shall file the final accounting with 17422
the court not later than ten days prior to the date scheduled for 17423
the final hearing on the adoption. The court may not issue a final 17424
decree of adoption or finalize an interlocutory order of adoption 17425
of a minor until at least ten days after the agency or attorney 17426

files the final accounting. 17427

~~(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:~~ 17428

~~(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;~~ 17429
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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;~~ 17433
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~~(3) If the adoption was arranged by an attorney, a notation of that fact.~~ 17438
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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.~~ 17443
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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.~~ 17449
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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 17452
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agency of the county in which the child resides if the child's 17457
mother is a recipient of public assistance or of services under 17458
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 17459
U.S.C.A. 651, as amended, or the alleged father's personal 17460
representative. 17461

(B) An agreement does not bar an action under this section. 17462

(C) If an action under this section is brought before the 17463
birth of the child and if the action is contested, all 17464
proceedings, except service of process and the taking of 17465
depositions to perpetuate testimony, may be stayed until after the 17466
birth. 17467

(D) A recipient of public assistance or of services under 17468
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 17469
U.S.C.A. 651, as amended, shall cooperate with the child support 17470
enforcement agency of the county in which a child resides to 17471
obtain an administrative determination pursuant to sections 17472
3111.38 to 3111.54 of the Revised Code, or, if necessary, a court 17473
determination pursuant to sections 3111.01 to 3111.18 of the 17474
Revised Code, of the existence or nonexistence of a parent and 17475
child relationship between the father and the child. If the 17476
recipient fails to cooperate, the agency may commence an action to 17477
determine the existence or nonexistence of a parent and child 17478
relationship between the father and the child pursuant to sections 17479
3111.01 to 3111.18 of the Revised Code. 17480

(E) As used in this section, "public assistance" means 17481
medical assistance under Chapter 5111. of the Revised Code, 17482
assistance under Chapter 5107. of the Revised Code, or disability 17483
financial assistance under Chapter 5115. of the Revised Code, ~~or~~ 17484
~~disability medical assistance under Chapter 5115. of the Revised~~ 17485
~~Code.~~ 17486

Sec. 3119.54. If either party to a child support order issued 17487
in accordance with section 3119.30 of the Revised Code is eligible 17488
for medical assistance under Chapter 5111. ~~or 5115.~~ of the Revised 17489
Code and the other party has obtained health insurance coverage, 17490
the party eligible for medical assistance shall notify any 17491
physician, hospital, or other provider of medical services for 17492
which medical assistance is available of the name and address of 17493
the other party's insurer and of the number of the other party's 17494
health insurance or health care policy, contract, or plan. Any 17495
physician, hospital, or other provider of medical services for 17496
which medical assistance is available under Chapter 5111. ~~or 5115.~~ 17497
of the Revised Code who is notified under this division of the 17498
existence of a health insurance or health care policy, contract, 17499
or plan with coverage for children who are eligible for medical 17500
assistance shall first bill the insurer for any services provided 17501
for those children. If the insurer fails to pay all or any part of 17502
a claim filed under this section and the services for which the 17503
claim is filed are covered by Chapter 5111. ~~or 5115.~~ of the 17504
Revised Code, the physician, hospital, or other medical services 17505
provider shall bill the remaining unpaid costs of the services in 17506
accordance with Chapter 5111. ~~or 5115.~~ of the Revised Code. 17507

Sec. 3121.12. (A) On receipt of a notice that a lump sum 17508
payment of one hundred fifty dollars or more is to be paid to the 17509
obligor, the court, with respect to a court support order, or the 17510
child support enforcement agency, with respect to an 17511
administrative child support order, shall do either of the 17512
following: 17513

(1) If the obligor is in default under the support order or 17514
has any arrearages under the support order, issue an order 17515
requiring the transmittal of the lump sum payment, or any portion 17516
of the lump sum payment sufficient to pay the arrearage in full, 17517

to the office of child support; 17518

(2) If the obligor is not in default under the support order 17519
and does not have any arrearages under the support order, issue an 17520
order directing the person who gave the notice to the court or 17521
agency to immediately pay the full amount of the lump sum payment 17522
to the obligor. 17523

(B) ~~On receipt of any~~ Any moneys received by the office of 17524
child support pursuant to division (A) of this section, ~~the office~~ 17525
~~of child support shall pay the amount of the lump sum payment that~~ 17526
~~is necessary to discharge all of the obligor's arrearages to the~~ 17527
~~obligee and, within two business days after its receipt of the~~ 17528
~~money, any amount that is remaining after the payment of the~~ 17529
~~arrearages to the obligor~~ be distributed in accordance with rules 17530
adopted under section 3121.71 of the Revised Code. 17531

(C) A court that issued an order prior to January 1, 1998, 17532
requiring an employer to withhold an amount from an obligor's 17533
personal earnings for the payment of support shall issue a 17534
supplemental order that does not change the original order or the 17535
related support order requiring the employer to do all of the 17536
following: 17537

(1) No later than the earlier of forty-five days before a 17538
lump sum payment is to be made or, if the obligor's right to a 17539
lump sum payment is determined less than forty-five days before it 17540
is to be made, the date on which that determination is made, 17541
notify the child support enforcement agency of any lump sum 17542
payment of any kind of one hundred fifty dollars or more that is 17543
to be paid to the obligor; 17544

(2) Hold the lump sum payment for thirty days after the date 17545
on which it would otherwise be paid to the obligor; 17546

(3) On order of the court, pay any specified amount of the 17547
lump sum payment to the office of child support. 17548

(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 17579
authorized by section 3125.03 of the Revised Code. 17580

Sec. 3301.079. (A)(1) Not later than December 31, 2001, the 17581
state board of education shall adopt statewide academic standards 17582
for each of grades kindergarten through twelve in reading, 17583
writing, and mathematics. Not later than December 31, 2002, the 17584
state board shall adopt statewide academic standards for each of 17585
grades kindergarten through twelve in science and social studies. 17586
The standards shall specify the academic content and skills that 17587
students are expected to know and be able to do at each grade 17588
level. 17589

(2) When academic standards have been completed for any 17590
subject area required by this division, the state board shall 17591
inform all school districts of the content of those standards. 17592

(B) Not later than eighteen months after the completion of 17593
academic standards for any subject area required by division (A) 17594
of this section, the state board shall adopt a model curriculum 17595
for instruction in that subject area for each of grades 17596
kindergarten through twelve that is sufficient to meet the needs 17597
of students in every community. The model curriculum shall be 17598
aligned with the standards to ensure that the academic content and 17599
skills specified for each grade level are taught to students. When 17600
any model curriculum has been completed, the state board shall 17601
inform all school districts of the content of that model 17602
curriculum. 17603

All school districts may utilize the state standards and the 17604
model curriculum established by the state board, together with 17605
other relevant resources, examples, or models to ensure that 17606
students have the opportunity to attain the academic standards. 17607
Upon request, the department of education shall provide technical 17608

assistance to any district in implementing the model curriculum. 17609

Nothing in this section requires any school district to 17610
utilize all or any part of a model curriculum developed under this 17611
division. 17612

(C) The state board shall develop achievement tests aligned 17613
with the academic standards and model curriculum for each of the 17614
subject areas and grade levels required by section 3301.0710 of 17615
the Revised Code. 17616

When any achievement test has been completed, the state board 17617
shall inform all school districts of its completion, and the 17618
department of education shall make the achievement test available 17619
to the districts. School districts shall administer the 17620
achievement test beginning in the school year indicated in section 17621
3301.0712 of the Revised Code. 17622

~~(D)(1) Not later than July 1, 2008, and except as provided in~~ 17623
~~division (D)(3) of this section, the~~ The state board shall adopt a 17624
diagnostic assessment aligned with the academic standards and 17625
model curriculum for each of grades kindergarten through two in 17626
reading, writing, and mathematics and for ~~each of grades~~ grade 17627
~~three through eight in reading, writing, mathematics, science, and~~ 17628
~~social studies.~~ The diagnostic assessment shall be designed to 17629
measure student comprehension of academic content and mastery of 17630
related skills for the relevant subject area and grade level. Any 17631
diagnostic assessment shall not include components to identify 17632
gifted students. Blank copies of diagnostic tests shall be public 17633
records. 17634

(2) When each diagnostic assessment has been completed, the 17635
state board shall inform all school districts of its completion 17636
and the department of education shall make the diagnostic 17637
assessment available to the districts at no cost to the district. 17638
School districts shall administer the diagnostic assessment 17639

pursuant to section 3301.0715 of the Revised Code beginning the 17640
first school year following the development of the assessment. 17641

~~(3) The state board shall not adopt a diagnostic assessment 17642
for any subject area and grade level for which the state board 17643
develops an achievement test under division (C) of this section. 17644~~

(E) Whenever the state board or the department of education 17645
consults with persons for the purpose of drafting or reviewing any 17646
standards, diagnostic assessments, achievement tests, or model 17647
curriculum required under this section, the state board or the 17648
department shall first consult with parents of students in 17649
kindergarten through twelfth grade and with active Ohio classroom 17650
teachers, other school personnel, and administrators with 17651
expertise in the appropriate subject area. Whenever practicable, 17652
the state board and department shall consult with teachers 17653
recognized as outstanding in their fields. 17654

If the department contracts with more than one outside entity 17655
for the development of the achievement tests required by this 17656
section, the department shall ensure the interchangeability of 17657
those tests. 17658

(F) The fairness sensitivity review committee, established by 17659
rule of the state board of education, shall not allow any question 17660
on any achievement test or diagnostic assessment developed under 17661
this section or any proficiency test prescribed by former section 17662
3301.0710 of the Revised Code, as it existed prior to September 17663
11, 2001, to include, be written to promote, or inquire as to 17664
individual moral or social values or beliefs. The decision of the 17665
committee shall be final. This section does not create a private 17666
cause of action. 17667

Sec. 3301.0710. The state board of education shall adopt 17668
rules establishing a statewide program to test student 17669

achievement. The state board shall ensure that all tests 17670
administered under the testing program are aligned with the 17671
academic standards and model curricula adopted by the state board 17672
and are created with input from Ohio parents, Ohio classroom 17673
teachers, Ohio school administrators, and other Ohio school 17674
personnel pursuant to section 3301.079 of the Revised Code. 17675

The testing program shall be designed to ensure that students 17676
who receive a high school diploma demonstrate at least high school 17677
levels of achievement in reading, writing, mathematics, science, 17678
and social studies. 17679

(A)(1) The state board shall prescribe all of the following: 17680

(a) Two statewide achievement tests, one each designed to 17681
measure the level of reading and mathematics skill expected at the 17682
end of third grade; 17683

(b) Three statewide achievement tests, one each designed to 17684
measure the level of reading, writing, and mathematics skill 17685
expected at the end of fourth grade; 17686

(c) Four statewide achievement tests, one each designed to 17687
measure the level of reading, mathematics, science, and social 17688
studies skill expected at the end of fifth grade; 17689

(d) Two statewide achievement tests, one each designed to 17690
measure the level of reading and mathematics skill expected at the 17691
end of sixth grade; 17692

(e) Three statewide achievement tests, one each designed to 17693
measure the level of reading, writing, and mathematics skill 17694
expected at the end of seventh grade; 17695

(f) Four statewide achievement tests, one each designed to 17696
measure the level of reading, mathematics, science, and social 17697
studies skill expected at the end of eighth grade. 17698

(2) The state board shall determine and designate at least 17699

five ranges of scores on each of the achievement tests described
in divisions (A)(1) and (B) of this section. Each range of scores
shall be deemed to demonstrate a level of achievement so that any
student attaining a score within such range has achieved one of
the following:

- (a) An advanced level of skill;
- (b) An accelerated level of skill;
- (c) A proficient level of skill;
- (d) A basic level of skill;
- (e) A limited level of skill.

(B) The tests prescribed under this division shall
collectively be known as the Ohio graduation tests. The state
board shall prescribe five statewide high school achievement
tests, one each designed to measure the level of reading, writing,
mathematics, science, and social studies skill expected at the end
of tenth grade. The state board shall designate a score in at
least the range designated under division (A)(2)(c) of this
section on each such test that shall be deemed to be a passing
score on the test as a condition toward granting high school
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08
of the Revised Code.

The state board may enter into a reciprocal agreement with
the appropriate body or agency of any other state that has similar
statewide achievement testing requirements for receiving high
school diplomas, under which any student who has met an
achievement testing requirement of one state is recognized as
having met the similar achievement testing requirement of the
other state for purposes of receiving a high school diploma. For
purposes of this section and sections 3301.0711 and 3313.61 of the
Revised Code, any student enrolled in any public high school in

this state who has met an achievement testing requirement 17730
specified in a reciprocal agreement entered into under this 17731
division shall be deemed to have attained at least the applicable 17732
score designated under this division on each test required by this 17733
division that is specified in the agreement. 17734

(C) ~~The~~ Except as provided in division (H) of this section, 17735
the state board shall annually designate as follows the dates on 17736
which the tests prescribed under this section shall be 17737
administered: 17738

(1) For the reading test prescribed under division (A)(1)(a) 17739
of this section, as follows: 17740

(a) One date prior to the thirty-first day of December each 17741
school year; 17742

(b) At least one date of each school year that is not earlier 17743
than Monday of the week containing the ~~eight~~ first day of ~~March~~ 17744
May; 17745

(c) One date during the summer that is not earlier than the 17746
tenth day of June nor later than the fifteenth day of July for 17747
students receiving summer remediation services under section 17748
3313.608 of the Revised Code. 17749

(2) For the mathematics test prescribed under division 17750
(A)(1)(a) of this section and the tests prescribed under divisions 17751
(A)(1)(b), (c), (d), (e), and (f) of this section, at least one 17752
date of each school year that is not earlier than Monday of the 17753
week containing the ~~eight~~ first day of ~~March~~ May; 17754

(3) For the tests prescribed under division (B) of this 17755
section, at least one date in each school year that is not earlier 17756
than Monday of the week containing the fifteenth day of March for 17757
all tenth grade students and at least one date prior to the 17758
thirty-first day of December and at least one date subsequent to 17759

that date but prior to the thirty-first day of March of each 17760
school year for eleventh and twelfth grade students. 17761

(D) In prescribing test dates pursuant to division (C)(3) of 17762
this section, the state board shall, to the greatest extent 17763
practicable, provide options to school districts in the case of 17764
tests administered under that division to eleventh and twelfth 17765
grade students and in the case of tests administered to students 17766
pursuant to division (C)(2) of section 3301.0711 of the Revised 17767
Code. Such options shall include at least an opportunity for 17768
school districts to give such tests outside of regular school 17769
hours. 17770

(E) In prescribing test dates pursuant to this section, the 17771
state board of education shall designate the dates in such a way 17772
as to allow a reasonable length of time between the administration 17773
of tests prescribed under this section and any administration of 17774
the National Assessment of Education Progress Test given to 17775
students in the same grade level pursuant to section 3301.27 of 17776
the Revised Code or federal law. 17777

(F) The state board shall prescribe a practice version of 17778
each Ohio graduation test described in division (B) of this 17779
section that is of comparable length to the actual test. 17780

(G) Any committee established by the department of education 17781
for the purpose of making recommendations to the state board 17782
regarding the state board's designation of scores on the tests 17783
described by this section shall inform the state board of the 17784
probable percentage of students who would score in each of the 17785
ranges established under division (A)(2) of this section on the 17786
tests if the committee's recommendations are adopted by the state 17787
board. To the extent possible, these percentages shall be 17788
disaggregated by gender, major racial and ethnic groups, limited 17789
English proficient students, economically disadvantaged students, 17790

students with disabilities, and migrant students. 17791

If the state board intends to make any change to the 17792
committee's recommendations, the state board shall explain the 17793
intended change to the Ohio accountability task force established 17794
by section 3302.021 of the Revised Code. The task force shall 17795
recommend whether the state board should proceed to adopt the 17796
intended change. Nothing in this division shall require the state 17797
board to designate test scores based upon the recommendations of 17798
the task force. 17799

(H)(1) The state board shall require any alternate assessment 17800
administered to a student under division (C)(1) of section 17801
3301.0711 of the Revised Code to be completed and submitted to the 17802
entity with which the department contracts for the scoring of the 17803
test not later than the first day of April of the school year in 17804
which the test is administered. 17805

(2) For any test prescribed by this section, the state board 17806
may designate a date one week earlier than the applicable date 17807
designated under division (C) of this section for the 17808
administration of the test to limited English proficient students. 17809

(3) In designating days for the administration of the tests 17810
prescribed by division (A) of this section, the state board shall 17811
require the tests for each grade level to be administered on 17812
consecutive days. 17813

Sec. 3301.0711. (A) The department of education shall: 17814

(1) Annually furnish to, grade, and score all tests required 17815
by section 3301.0710 of the Revised Code to be administered by 17816
city, local, exempted village, and joint vocational school 17817
districts, except that each district shall score any test 17818
administered pursuant to division (B)(10) of this section. Each 17819
test so furnished shall include the data verification code of the 17820

student to whom the test will be administered, as assigned 17821
pursuant to division (D)(2) of section 3301.0714 of the Revised 17822
Code. In furnishing the practice versions of Ohio graduation tests 17823
prescribed by division (F) of section 3301.0710 of the Revised 17824
Code, the department shall make the tests available on its web 17825
site for reproduction by districts. In awarding contracts for 17826
grading tests, the department shall give preference to Ohio-based 17827
entities employing Ohio residents. 17828

(2) Adopt rules for the ethical use of tests and prescribing 17829
the manner in which the tests prescribed by section 3301.0710 of 17830
the Revised Code shall be administered to students. 17831

(B) Except as provided in divisions (C) and (J) of this 17832
section, the board of education of each city, local, and exempted 17833
village school district shall, in accordance with rules adopted 17834
under division (A) of this section: 17835

(1) Administer the reading test prescribed under division 17836
(A)(1)(a) of section 3301.0710 of the Revised Code twice annually 17837
to all students in the third grade who have not attained the score 17838
designated for that test under division (A)(2)(c) of section 17839
3301.0710 of the Revised Code and once each summer to students 17840
receiving summer remediation services under section 3313.608 of 17841
the Revised Code. 17842

(2) Administer the mathematics test prescribed under division 17843
(A)(1)(a) of section 3301.0710 of the Revised Code at least once 17844
annually to all students in the third grade. 17845

(3) Administer the tests prescribed under division (A)(1)(b) 17846
of section 3301.0710 of the Revised Code at least once annually to 17847
all students in the fourth grade. 17848

(4) Administer the tests prescribed under division (A)(1)(c) 17849
of section 3301.0710 of the Revised Code at least once annually to 17850
all students in the fifth grade. 17851

(5) Administer the tests prescribed under division (A)(1)(d) 17852
of section 3301.0710 of the Revised Code at least once annually to 17853
all students in the sixth grade. 17854

(6) Administer the tests prescribed under division (A)(1)(e) 17855
of section 3301.0710 of the Revised Code at least once annually to 17856
all students in the seventh grade. 17857

(7) Administer the tests prescribed under division (A)(1)(f) 17858
of section 3301.0710 of the Revised Code at least once annually to 17859
all students in the eighth grade. 17860

(8) Except as provided in division (B)(9) of this section, 17861
administer any test prescribed under division (B) of section 17862
3301.0710 of the Revised Code as follows: 17863

(a) At least once annually to all tenth grade students and at 17864
least twice annually to all students in eleventh or twelfth grade 17865
who have not yet attained the score on that test designated under 17866
that division; 17867

(b) To any person who has successfully completed the 17868
curriculum in any high school or the individualized education 17869
program developed for the person by any high school pursuant to 17870
section 3323.08 of the Revised Code but has not received a high 17871
school diploma and who requests to take such test, at any time 17872
such test is administered in the district. 17873

(9) In lieu of the board of education of any city, local, or 17874
exempted village school district in which the student is also 17875
enrolled, the board of a joint vocational school district shall 17876
administer any test prescribed under division (B) of section 17877
3301.0710 of the Revised Code at least twice annually to any 17878
student enrolled in the joint vocational school district who has 17879
not yet attained the score on that test designated under that 17880
division. A board of a joint vocational school district may also 17881
administer such a test to any student described in division 17882

(B)(8)(b) of this section. 17883

(10) If the district has been declared to be under an 17884
academic watch or in a state of academic emergency pursuant to 17885
section 3302.03 of the Revised Code or has a three-year average 17886
graduation rate of not more than seventy-five per cent, administer 17887
each test prescribed by division (F) of section 3301.0710 of the 17888
Revised Code in September to all ninth grade students, beginning 17889
in the school year that starts July 1, 2005. 17890

(C)(1)(a) Any student receiving special education services 17891
under Chapter 3323. of the Revised Code may be excused from taking 17892
any particular test required to be administered under this section 17893
if the individualized education program developed for the student 17894
pursuant to section 3323.08 of the Revised Code excuses the 17895
student from taking that test and instead specifies an alternate 17896
assessment method approved by the department of education as 17897
conforming to requirements of federal law for receipt of federal 17898
funds for disadvantaged pupils. To the extent possible, the 17899
individualized education program shall not excuse the student from 17900
taking a test unless no reasonable accommodation can be made to 17901
enable the student to take the test. 17902

(b) Any alternate assessment approved by the department for a 17903
student under this division shall produce measurable results 17904
comparable to those produced by the tests which the alternate 17905
assessments are replacing in order to allow for the student's 17906
assessment results to be included in the data compiled for a 17907
school district or building under section 3302.03 of the Revised 17908
Code. 17909

(c) Any student enrolled in a chartered nonpublic school who 17910
has been identified, based on an evaluation conducted in 17911
accordance with section 3323.03 of the Revised Code or section 504 17912
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 17913

794, as amended, as a child with a disability shall be excused 17914
from taking any particular test required to be administered under 17915
this section if a plan developed for the student pursuant to rules 17916
adopted by the state board excuses the student from taking that 17917
test. In the case of any student so excused from taking a test, 17918
the chartered nonpublic school shall not prohibit the student from 17919
taking the test. 17920

(2) A district board may, for medical reasons or other good 17921
cause, excuse a student from taking a test administered under this 17922
section on the date scheduled, but any such test shall be 17923
administered to such excused student not later than nine days 17924
following the scheduled date. The board shall annually report the 17925
number of students who have not taken one or more of the tests 17926
required by this section to the state board of education not later 17927
than the thirtieth day of June. 17928

(3) As used in this division, "limited English proficient 17929
student" has the same meaning as in 20 U.S.C. 7801. 17930

No school district board shall excuse any limited English 17931
proficient student from taking any particular test required to be 17932
administered under this section, except that any limited English 17933
proficient student who has been enrolled in United States schools 17934
for less than one full school year shall not be required to take 17935
any such reading or writing test. However, no board shall prohibit 17936
a limited English proficient student who is not required to take a 17937
test under this division from taking the test. A board may permit 17938
any limited English proficient student to take any test required 17939
to be administered under this section with appropriate 17940
accommodations, as determined by the department. For each limited 17941
English proficient student, each school district shall annually 17942
assess that student's progress in learning English, in accordance 17943
with procedures approved by the department. 17944

The governing authority of a chartered nonpublic school may 17945
excuse a limited English proficient student from taking any test 17946
administered under this section. However, no governing authority 17947
shall prohibit a limited English proficient student from taking 17948
the test. 17949

(D)(1) In the school year next succeeding the school year in 17950
which the tests prescribed by division (A)(1) or (B) of section 17951
3301.0710 of the Revised Code or former division (A)(1), (A)(2), 17952
or (B) of section 3301.0710 of the Revised Code as it existed 17953
prior to September 11, 2001, are administered to any student, the 17954
board of education of any school district in which the student is 17955
enrolled in that year shall provide to the student intervention 17956
services commensurate with the student's test performance, 17957
including any intensive intervention required under section 17958
3313.608 of the Revised Code, in any skill in which the student 17959
failed to demonstrate at least a score at the proficient level on 17960
the test. 17961

(2) Following any administration of the tests prescribed by 17962
division (F) of section 3301.0710 of the Revised Code to ninth 17963
grade students, each school district that has a three-year average 17964
graduation rate of not more than seventy-five per cent shall 17965
determine for each high school in the district whether the school 17966
shall be required to provide intervention services to any students 17967
who took the tests. In determining which high schools shall 17968
provide intervention services based on the resources available, 17969
the district shall consider each school's graduation rate and 17970
scores on the practice tests. The district also shall consider the 17971
scores received by ninth grade students on the reading and 17972
mathematics tests prescribed under division (A)(1)(f) of section 17973
3301.0710 of the Revised Code in the eighth grade in determining 17974
which high schools shall provide intervention services. 17975

Each high school selected to provide intervention services 17976

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 18009
following the day the student takes the test. 18010

(2) The department or an entity with which the department 18011
contracts for the scoring of the test shall send to each school 18012
district board a list of the individual test scores of all persons 18013
taking ~~the~~ any test prescribed by division (A)(1) or (B) of 18014
section 3301.0710 of the Revised Code within sixty days after its 18015
administration, but in no case shall the scores be returned later 18016
than the fifteenth day of June following the administration. For 18017
any tests administered under this section by a joint vocational 18018
school district, the department or entity shall also send to each 18019
city, local, or exempted village school district a list of the 18020
individual test scores of any students of such city, local, or 18021
exempted village school district who are attending school in the 18022
joint vocational school district. 18023

(H) Individual test scores on any tests administered under 18024
this section shall be released by a district board only in 18025
accordance with section 3319.321 of the Revised Code and the rules 18026
adopted under division (A) of this section. No district board or 18027
its employees shall utilize individual or aggregate test results 18028
in any manner that conflicts with rules for the ethical use of 18029
tests adopted pursuant to division (A) of this section. 18030

(I) Except as provided in division (G) of this section, the 18031
department or an entity with which the department contracts for 18032
the scoring of the test shall not release any individual test 18033
scores on any test administered under this section ~~and~~. The state 18034
board of education shall adopt rules to ensure the protection of 18035
student confidentiality at all times. The rules may require the 18036
use of the data verification codes assigned to students pursuant 18037
to division (D)(2) of section 3301.0714 of the Revised Code to 18038
protect the confidentiality of student test scores. 18039

(J) Notwithstanding division (D) of section 3311.52 of the 18040

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 18072
section 3301.0710 or 3301.0712 of the Revised Code if the chief 18073
administrator of the school specifies which tests the school 18074
wishes to administer. Such specification shall be made in writing 18075
to the superintendent of public instruction prior to the first day 18076
of August of any school year in which tests are administered and 18077
shall include a pledge that the nonpublic school will administer 18078
the specified tests in the same manner as public schools are 18079
required to do under this section and rules adopted by the 18080
department. 18081

(2) The department of education shall furnish the tests 18082
prescribed by section 3301.0710 or 3301.0712 of the Revised Code 18083
to any chartered nonpublic school electing to participate under 18084
this division. 18085

(L)(1) The superintendent of the state school for the blind 18086
and the superintendent of the state school for the deaf shall 18087
administer the tests described by section 3301.0710 of the Revised 18088
Code. Each superintendent shall administer the tests in the same 18089
manner as district boards are required to do under this section 18090
and rules adopted by the department of education and in conformity 18091
with division (C)(1)(a) of this section. 18092

(2) The department of education shall furnish the tests 18093
described by section 3301.0710 of the Revised Code to each 18094
superintendent. 18095

(M) Notwithstanding division (E) of this section, a school 18096
district may use a student's failure to attain a score in at least 18097
the basic range on the mathematics test described by division 18098
(A)(1)(a) of section 3301.0710 of the Revised Code or on any of 18099
the tests described by division (A)(1)(b), (c), (d), (e), or (f) 18100
of section 3301.0710 of the Revised Code as a factor in retaining 18101
that student in the current grade level. 18102

(N)(1) ~~The~~ In the manner specified in divisions (N)(3) to (5) 18103
of this section, the tests required by section 3301.0710 of the 18104
Revised Code shall become public records pursuant to section 18105
149.43 of the Revised Code on the first day of July following the 18106
school year that the test was administered, except that the 18107
reading test prescribed under division (A)(1)(a) of section 18108
3301.0710 of the Revised Code shall become a public record on the 18109
sixteenth day of July following the school year that the test was 18110
administered. 18111

(2) The department may field test proposed test questions 18112
with samples of students to determine the validity, reliability, 18113
or appropriateness of test questions for possible inclusion in a 18114
future year's test. The department also may use anchor questions 18115
on tests to ensure that different versions of the same test are of 18116
comparable difficulty. 18117

Field test questions and anchor questions shall not be 18118
considered in computing test scores for individual students. Field 18119
test questions and anchor questions may be included as part of the 18120
administration of any test required by section 3301.0710 of the 18121
Revised Code. 18122

(3) Any field test question or anchor question administered 18123
under division (N)(2) of this section shall not be a public 18124
record. Such field test questions and anchor questions shall be 18125
redacted from any tests which are released as a public record 18126
pursuant to division (N)(1) of this section. 18127

(4) This division applies to the tests prescribed by division 18128
(A) of section 3301.0710 of the Revised Code. 18129

(a) The first administration of each test, as specified in 18130
section 3301.0712 of the Revised Code, shall be a public record. 18131

(b) For subsequent administrations of each test, not less 18132
than forty per cent of the questions on the test that are used to 18133

compute a student's score shall be a public record. The department 18134
shall determine which questions will be needed for reuse on a 18135
future test and those questions shall not be public records and 18136
shall be redacted from the test prior to its release as a public 18137
record. 18138

(5) Each test prescribed by division (B) of section 3301.0710 18139
of the Revised Code that is administered in the spring shall be a 18140
public record. Each test prescribed by that division that is 18141
administered in the fall or summer shall not be a public record. 18142

(0) As used in this section: 18143

(1) "Three-year average" means the average of the most recent 18144
consecutive three school years of data. 18145

(2) "Dropout" means a student who withdraws from school 18146
before completing course requirements for graduation and who is 18147
not enrolled in an education program approved by the state board 18148
of education or an education program outside the state. "Dropout" 18149
does not include a student who has departed the country. 18150

(3) "Graduation rate" means the ratio of students receiving a 18151
diploma to the number of students who entered ninth grade four 18152
years earlier. Students who transfer into the district are added 18153
to the calculation. Students who transfer out of the district for 18154
reasons other than dropout are subtracted from the calculation. If 18155
a student who was a dropout in any previous year returns to the 18156
same school district, that student shall be entered into the 18157
calculation as if the student had entered ninth grade four years 18158
before the graduation year of the graduating class that the 18159
student joins. 18160

Sec. 3301.0714. (A) The state board of education shall adopt 18161
rules for a statewide education management information system. The 18162
rules shall require the state board to establish guidelines for 18163

the establishment and maintenance of the system in accordance with 18164
this section and the rules adopted under this section. The 18165
guidelines shall include: 18166

(1) Standards identifying and defining the types of data in 18167
the system in accordance with divisions (B) and (C) of this 18168
section; 18169

(2) Procedures for annually collecting and reporting the data 18170
to the state board in accordance with division (D) of this 18171
section; 18172

(3) Procedures for annually compiling the data in accordance 18173
with division (G) of this section; 18174

(4) Procedures for annually reporting the data to the public 18175
in accordance with division (H) of this section. 18176

(B) The guidelines adopted under this section shall require 18177
the data maintained in the education management information system 18178
to include at least the following: 18179

(1) Student participation and performance data, for each 18180
grade in each school district as a whole and for each grade in 18181
each school building in each school district, that includes: 18182

(a) The numbers of students receiving each category of 18183
instructional service offered by the school district, such as 18184
regular education instruction, vocational education instruction, 18185
specialized instruction programs or enrichment instruction that is 18186
part of the educational curriculum, instruction for gifted 18187
students, instruction for handicapped students, and remedial 18188
instruction. The guidelines shall require instructional services 18189
under this division to be divided into discrete categories if an 18190
instructional service is limited to a specific subject, a specific 18191
type of student, or both, such as regular instructional services 18192
in mathematics, remedial reading instructional services, 18193
instructional services specifically for students gifted in 18194

mathematics or some other subject area, or instructional services 18195
for students with a specific type of handicap. The categories of 18196
instructional services required by the guidelines under this 18197
division shall be the same as the categories of instructional 18198
services used in determining cost units pursuant to division 18199
(C)(3) of this section. 18200

(b) The numbers of students receiving support or 18201
extracurricular services for each of the support services or 18202
extracurricular programs offered by the school district, such as 18203
counseling services, health services, and extracurricular sports 18204
and fine arts programs. The categories of services required by the 18205
guidelines under this division shall be the same as the categories 18206
of services used in determining cost units pursuant to division 18207
(C)(4)(a) of this section. 18208

(c) Average student grades in each subject in grades nine 18209
through twelve; 18210

(d) Academic achievement levels as assessed by the testing of 18211
student achievement under sections 3301.0710 and 3301.0711 of the 18212
Revised Code; 18213

(e) The number of students designated as having a 18214
handicapping condition pursuant to division (C)(1) of section 18215
3301.0711 of the Revised Code; 18216

(f) The numbers of students reported to the state board 18217
pursuant to division (C)(2) of section 3301.0711 of the Revised 18218
Code; 18219

(g) Attendance rates and the average daily attendance for the 18220
year. For purposes of this division, a student shall be counted as 18221
present for any field trip that is approved by the school 18222
administration. 18223

(h) Expulsion rates; 18224

(i) Suspension rates;	18225
(j) The percentage of students receiving corporal punishment;	18226
(k) Dropout rates;	18227
(l) Rates of retention in grade;	18228
(m) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;	18229 18230 18231
(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;	18232 18233 18234 18235 18236
(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.	18237 18238 18239 18240 18241 18242 18243
(2) Personnel and classroom enrollment data for each school district, including:	18244 18245
(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	18246 18247 18248 18249 18250 18251 18252 18253 18254

whole, and for each grade in each school building. 18255

(b) The total number of employees and the number of full-time 18256
equivalent employees providing each category of service used 18257
pursuant to divisions (C)(4)(a) and (b) of this section, and the 18258
total numbers of licensed employees and nonlicensed employees and 18259
the numbers of full-time equivalent licensed employees and 18260
nonlicensed employees providing each category used pursuant to 18261
division (C)(4)(c) of this section. The guidelines adopted under 18262
this section shall require these categories of data to be 18263
maintained for the school district as a whole and, wherever 18264
applicable, for each grade in the school district as a whole, for 18265
each school building as a whole, and for each grade in each school 18266
building. 18267

(c) The total number of regular classroom teachers teaching 18268
classes of regular education and the average number of pupils 18269
enrolled in each such class, in each of grades kindergarten 18270
through five in the district as a whole and in each school 18271
building in the school district. 18272

(d) The number of master teachers employed by each school 18273
district and each school building, once a definition of master 18274
teacher has been developed by the educator standards board 18275
pursuant to section 3319.61 of the Revised Code. 18276

(3)(a) Student demographic data for each school district, 18277
including information regarding the gender ratio of the school 18278
district's pupils, the racial make-up of the school district's 18279
pupils, the number of limited English proficient students in the 18280
district, and an appropriate measure of the number of the school 18281
district's pupils who reside in economically disadvantaged 18282
households. The demographic data shall be collected in a manner to 18283
allow correlation with data collected under division (B)(1) of 18284
this section. Categories for data collected pursuant to division 18285

(B)(3) of this section shall conform, where appropriate, to standard practices of agencies of the federal government. 18286
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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. 18288
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(4) Any data required to be collected pursuant to federal law. 18293
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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: 18295
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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. 18304
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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. 18310
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(3) Instructional services costs for each category of 18316

instructional service provided directly to students and required 18317
by guidelines adopted pursuant to division (B)(1)(a) of this 18318
section. The guidelines shall require the cost units under 18319
division (C)(3) of this section to be designed so that each of 18320
them may be compiled and reported in terms of average expenditure 18321
per pupil receiving the service in the school district as a whole 18322
and average expenditure per pupil receiving the service in each 18323
building in the school district and in terms of a total cost for 18324
each category of service and, as a breakdown of the total cost, a 18325
cost for each of the following components: 18326

(a) The cost of each instructional services category required 18327
by guidelines adopted under division (B)(1)(a) of this section 18328
that is provided directly to students by a classroom teacher; 18329

(b) The cost of the instructional support services, such as 18330
services provided by a speech-language pathologist, classroom 18331
aide, multimedia aide, or librarian, provided directly to students 18332
in conjunction with each instructional services category; 18333

(c) The cost of the administrative support services related 18334
to each instructional services category, such as the cost of 18335
personnel that develop the curriculum for the instructional 18336
services category and the cost of personnel supervising or 18337
coordinating the delivery of the instructional services category. 18338

(4) Support or extracurricular services costs for each 18339
category of service directly provided to students and required by 18340
guidelines adopted pursuant to division (B)(1)(b) of this section. 18341
The guidelines shall require the cost units under division (C)(4) 18342
of this section to be designed so that each of them may be 18343
compiled and reported in terms of average expenditure per pupil 18344
receiving the service in the school district as a whole and 18345
average expenditure per pupil receiving the service in each 18346
building in the school district and in terms of a total cost for 18347

each category of service and, as a breakdown of the total cost, a 18348
cost for each of the following components: 18349

(a) The cost of each support or extracurricular services 18350
category required by guidelines adopted under division (B)(1)(b) 18351
of this section that is provided directly to students by a 18352
licensed employee, such as services provided by a guidance 18353
counselor or any services provided by a licensed employee under a 18354
supplemental contract; 18355

(b) The cost of each such services category provided directly 18356
to students by a nonlicensed employee, such as janitorial 18357
services, cafeteria services, or services of a sports trainer; 18358

(c) The cost of the administrative services related to each 18359
services category in division (C)(4)(a) or (b) of this section, 18360
such as the cost of any licensed or nonlicensed employees that 18361
develop, supervise, coordinate, or otherwise are involved in 18362
administering or aiding the delivery of each services category. 18363

(D)(1) The guidelines adopted under this section shall 18364
require school districts to collect information about individual 18365
students, staff members, or both in connection with any data 18366
required by division (B) or (C) of this section or other reporting 18367
requirements established in the Revised Code. The guidelines may 18368
also require school districts to report information about 18369
individual staff members in connection with any data required by 18370
division (B) or (C) of this section or other reporting 18371
requirements established in the Revised Code. The guidelines shall 18372
not authorize school districts to request social security numbers 18373
of individual students. The guidelines shall prohibit the 18374
reporting under this section of a student's name, address, and 18375
social security number to the state board of education or the 18376
department of education. The guidelines shall also prohibit the 18377
reporting under this section of any personally identifiable 18378

information about any student, except for the purpose of assigning 18379
the data verification code required by division (D)(2) of this 18380
section, to any other person unless such person is employed by the 18381
school district or the data acquisition site operated under 18382
section 3301.075 of the Revised Code and is authorized by the 18383
district or acquisition site to have access to such information or 18384
is employed by an entity with which the department contracts for 18385
the scoring of tests administered under section 3301.0711 or 18386
3301.0712 of the Revised Code. The guidelines may require school 18387
districts to provide the social security numbers of individual 18388
staff members. 18389

(2) The guidelines shall provide for each school district or 18390
community school to assign a data verification code that is unique 18391
on a statewide basis over time to each student whose initial Ohio 18392
enrollment is in that district or school and to report all 18393
required individual student data for that student utilizing such 18394
code. The guidelines shall also provide for assigning data 18395
verification codes to all students enrolled in districts or 18396
community schools on the effective date of the guidelines 18397
established under this section. 18398

Individual student data shall be reported to the department 18399
through the data acquisition sites utilizing the code but at no 18400
time shall the state board or the department have access to 18401
information that would enable any data verification code to be 18402
matched to personally identifiable student data. 18403

Each school district shall ensure that the data verification 18404
code is included in the student's records reported to any 18405
subsequent school district or community school in which the 18406
student enrolls. Any such subsequent district or school shall 18407
utilize the same identifier in its reporting of data under this 18408
section. 18409

(E) The guidelines adopted under this section may require 18410
school districts to collect and report data, information, or 18411
reports other than that described in divisions (A), (B), and (C) 18412
of this section for the purpose of complying with other reporting 18413
requirements established in the Revised Code. The other data, 18414
information, or reports may be maintained in the education 18415
management information system but are not required to be compiled 18416
as part of the profile formats required under division (G) of this 18417
section or the annual statewide report required under division (H) 18418
of this section. 18419

(F) Beginning with the school year that begins July 1, 1991, 18420
the board of education of each school district shall annually 18421
collect and report to the state board, in accordance with the 18422
guidelines established by the board, the data required pursuant to 18423
this section. A school district may collect and report these data 18424
notwithstanding section 2151.358 or 3319.321 of the Revised Code. 18425

(G) The state board shall, in accordance with the procedures 18426
it adopts, annually compile the data reported by each school 18427
district pursuant to division (D) of this section. The state board 18428
shall design formats for profiling each school district as a whole 18429
and each school building within each district and shall compile 18430
the data in accordance with these formats. These profile formats 18431
shall: 18432

(1) Include all of the data gathered under this section in a 18433
manner that facilitates comparison among school districts and 18434
among school buildings within each school district; 18435

(2) Present the data on academic achievement levels as 18436
assessed by the testing of student achievement maintained pursuant 18437
to division (B)(1)(d) of this section. 18438

(H)(1) The state board shall, in accordance with the 18439
procedures it adopts, annually prepare a statewide report for all 18440

school districts and the general public that includes the profile 18441
of each of the school districts developed pursuant to division (G) 18442
of this section. Copies of the report shall be sent to each school 18443
district. 18444

(2) The state board shall, in accordance with the procedures 18445
it adopts, annually prepare an individual report for each school 18446
district and the general public that includes the profiles of each 18447
of the school buildings in that school district developed pursuant 18448
to division (G) of this section. Copies of the report shall be 18449
sent to the superintendent of the district and to each member of 18450
the district board of education. 18451

(3) Copies of the reports received from the state board under 18452
divisions (H)(1) and (2) of this section shall be made available 18453
to the general public at each school district's offices. Each 18454
district board of education shall make copies of each report 18455
available to any person upon request and payment of a reasonable 18456
fee for the cost of reproducing the report. The board shall 18457
annually publish in a newspaper of general circulation in the 18458
school district, at least twice during the two weeks prior to the 18459
week in which the reports will first be available, a notice 18460
containing the address where the reports are available and the 18461
date on which the reports will be available. 18462

(I) Any data that is collected or maintained pursuant to this 18463
section and that identifies an individual pupil is not a public 18464
record for the purposes of section 149.43 of the Revised Code. 18465

(J) As used in this section: 18466

(1) "School district" means any city, local, exempted 18467
village, or joint vocational school district. 18468

(2) "Cost" means any expenditure for operating expenses made 18469
by a school district excluding any expenditures for debt 18470
retirement except for payments made to any commercial lending 18471

institution for any loan approved pursuant to section 3313.483 of 18472
the Revised Code. 18473

(K) Any person who removes data from the information system 18474
established under this section for the purpose of releasing it to 18475
any person not entitled under law to have access to such 18476
information is subject to section 2913.42 of the Revised Code 18477
prohibiting tampering with data. 18478

(L) Any time the department of education determines that a 18479
school district has taken any of the actions described under 18480
division (L)(1), (2), or (3) of this section, it shall make a 18481
report of the actions of the district, send a copy of the report 18482
to the superintendent of such school district, and maintain a copy 18483
of the report in its files: 18484

(1) The school district fails to meet any deadline 18485
established pursuant to this section for the reporting of any data 18486
to the education management information system; 18487

(2) The school district fails to meet any deadline 18488
established pursuant to this section for the correction of any 18489
data reported to the education management information system; 18490

(3) The school district reports data to the education 18491
management information system in a condition, as determined by the 18492
department, that indicates that the district did not make a good 18493
faith effort in reporting the data to the system. 18494

Any report made under this division shall include 18495
recommendations for corrective action by the school district. 18496

Upon making a report for the first time in a fiscal year, the 18497
department shall withhold ten per cent of the total amount due 18498
during that fiscal year under Chapter 3317. of the Revised Code to 18499
the school district to which the report applies. Upon making a 18500
second report in a fiscal year, the department shall withhold an 18501

additional twenty per cent of such total amount due during that 18502
fiscal year to the school district to which the report applies. 18503
The department shall not release such funds unless it determines 18504
that the district has taken corrective action. However, no such 18505
release of funds shall occur if the district fails to take 18506
corrective action within forty-five days of the date upon which 18507
the report was made by the department. 18508

(M) No data acquisition site or school district shall 18509
acquire, change, or update its student administration software 18510
package to manage and report data required to be reported to the 18511
department unless it converts to a student software package that 18512
is certified by the department. 18513

(N) The state board of education, in accordance with sections 18514
3319.31 and 3319.311 of the Revised Code, may suspend or revoke a 18515
license as defined under division (A) of section 3319.31 of the 18516
Revised Code that has been issued to any school district employee 18517
found to have willfully reported erroneous, inaccurate, or 18518
incomplete data to the education management information system. 18519

(O) No person shall release or maintain any information about 18520
any student in violation of this section. Whoever violates this 18521
division is guilty of a misdemeanor of the fourth degree. 18522

(P) The department shall disaggregate the data collected 18523
under division (B)(1)(o) of this section according to the race and 18524
socioeconomic status of the students assessed. No data collected 18525
under that division shall be included on the report cards required 18526
by section 3302.03 of the Revised Code. 18527

(Q) If the department cannot compile any of the information 18528
required by division (C)(5) of section 3302.03 of the Revised Code 18529
based upon the data collected under this section, the department 18530
shall develop a plan and a reasonable timeline for the collection 18531
of any data necessary to comply with that division. 18532

Sec. 3301.0715. (A) Except as provided in division (E) of 18533
this section, the board of education of each city, local, and 18534
exempted village school district shall administer each applicable 18535
diagnostic assessment developed and provided to the district in 18536
accordance with section 3301.079 of the Revised Code to the 18537
following: 18538

(1) Each student enrolled in a building subject to division 18539
(E) of section 3302.04 of the Revised Code; 18540

(2) Any student who transfers into the district or to a 18541
different school within the district if each applicable diagnostic 18542
assessment was not administered by the district or school the 18543
student previously attended in the current school year, within 18544
thirty days after the date of transfer. If the district or school 18545
into which the student transfers cannot determine whether the 18546
student has taken any applicable diagnostic assessment in the 18547
current school year, the district or school may administer the 18548
diagnostic assessment to the student. 18549

(3) Each kindergarten student, not later than six weeks after 18550
the first day of school. For the purpose of division (A)(3) of 18551
this section, the district shall administer the kindergarten 18552
readiness assessment provided by the department of education. The 18553
district may administer the readiness assessment to a student 18554
prior to the student's enrollment in kindergarten, but in no case 18555
shall the results of the readiness assessment be used to prohibit 18556
the student from enrolling in kindergarten. 18557

(4) Each student enrolled in first or second grade. 18558

(B) Each district board shall administer each diagnostic 18559
assessment as the board deems appropriate. However, the board 18560
shall administer any diagnostic assessment at least once annually 18561
to all students in the appropriate grade level. A district board 18562

may administer any diagnostic assessment in the fall and spring of 18563
a school year to measure the amount of academic growth 18564
attributable to the instruction received by students during that 18565
school year. 18566

(C) Each district board shall utilize and score any 18567
diagnostic assessment administered under division (A) of this 18568
section in accordance with rules established by the department. 18569
Except as required by division (B)(1)(o) of section 3301.0714 of 18570
the Revised Code, neither the state board of education nor the 18571
department shall require school districts to report the results of 18572
diagnostic assessments for any students to the department or to 18573
make any such results available in any form to the public. After 18574
the administration of any diagnostic assessment, each district 18575
shall provide a student's completed diagnostic assessment, the 18576
results of such assessment, and any other accompanying documents 18577
used during the administration of the assessment to the parent of 18578
that student upon the parent's request. 18579

(D) Each district board shall provide intervention services 18580
to students whose diagnostic assessments show that they are 18581
failing to make satisfactory progress toward attaining the 18582
academic standards for their grade level. 18583

(E) Any district that made adequate yearly progress, as 18584
defined in section 3302.01 of the Revised Code, in the immediately 18585
preceding school year may assess student progress in grades one 18586
through ~~eight~~ three using a diagnostic assessment other than the 18587
diagnostic assessment required by division (A) of this section. 18588

(F) A district board may administer ~~any~~ the third grade 18589
writing diagnostic assessment provided to the district in 18590
accordance with section 3301.079 of the Revised Code to any 18591
student enrolled in a building that is not subject to division 18592
(A)(1) of this section. Any district electing to administer the 18593

diagnostic ~~assessments~~ assessment to students under this division 18594
shall provide intervention services to any such student whose 18595
diagnostic assessment shows unsatisfactory progress toward 18596
attaining the academic standards for the student's grade level. 18597

Sec. 3301.12. (A) The superintendent of public instruction in 18598
addition to the authority otherwise imposed on ~~him~~ the 18599
superintendent, shall perform the following duties: 18600

(1) ~~He~~ The superintendent shall provide technical and 18601
professional assistance and advice to all school districts in 18602
reference to all aspects of education, including finance, 18603
buildings and equipment, administration, organization of school 18604
districts, curriculum and instruction, transportation of pupils, 18605
personnel problems, and the interpretation of school laws and 18606
state regulations. 18607

(2) ~~He~~ The superintendent shall prescribe and require the 18608
preparation and filing of such financial and other reports from 18609
school districts, officers, and employees as are necessary or 18610
proper. ~~He~~ The superintendent shall prescribe and require the 18611
installation by school districts of such standardized reporting 18612
forms and accounting procedures as are essential to the 18613
businesslike operations of the public schools of the state. 18614

(3) ~~He~~ The superintendent shall conduct such studies and 18615
research projects as are necessary or desirable for the 18616
improvement of public school education in Ohio, and such as may be 18617
assigned to ~~him~~ the superintendent by the state board of 18618
education. Such studies and projects may include analysis of data 18619
contained in the education management information system 18620
established under section 3301.0714 of the Revised Code. For any 18621
study or project that requires the analysis of individual student 18622
data, the department of education or any entity with which the 18623
superintendent or department contracts to conduct the study or 18624

project shall maintain the confidentiality of student data at all 18625
times. For this purpose, the department or contracting entity 18626
shall use the data verification code assigned pursuant to division 18627
(D)(2) of section 3301.0714 of the Revised Code for each student 18628
whose data is analyzed. Except as otherwise provided in division 18629
(D)(1) of section 3301.0714 of the Revised Code, at no time shall 18630
the superintendent, the department, the state board of education, 18631
or any entity conducting a study or research project on the 18632
superintendent's behalf have access to a student's name, address, 18633
or social security number while analyzing individual student data. 18634

(4) ~~He~~ The superintendent shall prepare and submit annually 18635
to the state board of education a report of the activities of the 18636
department of education and the status, problems, and needs of 18637
education in the state of Ohio. 18638

(5) ~~He~~ The superintendent shall supervise all agencies over 18639
which the board exercises administrative control, including 18640
schools for education of handicapped persons. 18641

(B) The superintendent of public instruction may annually 18642
inspect and analyze the expenditures of each school district and 18643
make a determination as to the efficiency of each district's 18644
costs, relative to other school districts in the state, for 18645
instructional, administrative, and student support services. The 18646
superintendent shall notify each school district as to the nature 18647
of, and reasons for, ~~his~~ the determination. The state board of 18648
education shall adopt rules in accordance with Chapter 119. of the 18649
Revised Code setting forth the procedures and standards for the 18650
performance of the inspection and analysis. 18651

Sec. 3301.16. Pursuant to standards prescribed by the state 18652
board of education as provided in division (D) of section 3301.07 18653
of the Revised Code, the state board shall classify and charter 18654
school districts and individual schools within each district 18655

except that no charter shall be granted to a nonpublic school 18656
unless pursuant to division (K) of section 3301.0711 of the 18657
Revised Code the school elects to administer the tests prescribed 18658
by division (B) of section 3301.0710 of the Revised Code beginning 18659
July 1, 1995. ~~The~~ 18660

In the course of considering the charter of a new school 18661
district created under section 3311.26 or 3311.38 of the Revised 18662
Code, the state board shall require the party proposing creation 18663
of the district to submit to the board a map, certified by the 18664
county auditor of the county in which the proposed new district is 18665
located, showing the boundaries of the proposed new district. In 18666
the case of a proposed new district located in more than one 18667
county, the map shall be certified by the county auditor of each 18668
county in which the proposed district is located. 18669

The state board shall revoke the charter of any school 18670
district or school which fails to meet the standards for 18671
elementary and high schools as prescribed by the board. The state 18672
board shall also revoke the charter of any nonpublic school that 18673
does not comply with section 3313.612 of the Revised Code or, on 18674
or after July 1, 1995, does not participate in the testing program 18675
prescribed by division (B) of section 3301.0710 of the Revised 18676
Code. ~~In~~ 18677

In the issuance and revocation of school district or school 18678
charters, the state board shall be governed by the provisions of 18679
Chapter 119. of the Revised Code. 18680

No school district, or individual school operated by a school 18681
district, shall operate without a charter issued by the state 18682
board under this section. 18683

In case a school district charter is revoked pursuant to this 18684
section, the state board may dissolve the school district and 18685
transfer its territory to one or more adjacent districts. An 18686

equitable division of the funds, property, and indebtedness of the school district shall be made by the state board among the receiving districts. The board of education of a receiving district shall accept such territory pursuant to the order of the state board. Prior to dissolving the school district, the state board shall notify the appropriate educational service center governing board and all adjacent school district boards of education of its intention to do so. Boards so notified may make recommendations to the state board regarding the proposed dissolution and subsequent transfer of territory. Except as provided in section 3301.161 of the Revised Code, the transfer ordered by the state board shall become effective on the date specified by the state board, but the date shall be at least thirty days following the date of issuance of the order.

A high school is one of higher grade than an elementary school, in which instruction and training are given in accordance with sections 3301.07 and 3313.60 of the Revised Code and which also offers other subjects of study more advanced than those taught in the elementary schools and such other subjects as may be approved by the state board of education.

An elementary school is one in which instruction and training are given in accordance with sections 3301.07 and 3313.60 of the Revised Code and which offers such other subjects as may be approved by the state board of education. In districts wherein a junior high school is maintained, the elementary schools in that district may be considered to include only the work of the first six school years inclusive, plus the kindergarten year.

Sec. 3301.311. (A) As used in this section, "preschool program" and "school child program" have the same meanings as in section 3301.52 of the Revised Code.

(B) After ~~June 30, 2001~~ July 1, 2005, no head-start preschool

program, school child program, or early learning program, as 18718
defined by the department of education, shall receive any funds 18719
from the state unless fifty per cent of the staff members employed 18720
by that program as teachers are working toward an associate degree 18721
of a type approved by the department of education. ~~After June 30,~~ 18722
~~2003, no head start program shall receive any funds from the state~~ 18723
~~unless each staff member employed by that program as a teacher is~~ 18724
~~working toward an associate degree of a type approved by the~~ 18725
~~department of education.~~ Beginning in fiscal year 2008, no head 18726
~~start~~ preschool program, school child program, or early learning 18727
program, shall receive any funds from the state unless every staff 18728
member employed by that program as a teacher has attained such a 18729
degree. 18730

Sec. 3301.32. (A)(1) The chief administrator of any head 18731
start agency shall request the superintendent of the bureau of 18732
criminal identification and investigation to conduct a criminal 18733
records check with respect to any applicant who has applied to the 18734
head start agency for employment as a person responsible for the 18735
care, custody, or control of a child. If the applicant does not 18736
present proof that the applicant has been a resident of this state 18737
for the five-year period immediately prior to the date upon which 18738
the criminal records check is requested or does not provide 18739
evidence that within that five-year period the superintendent has 18740
requested information about the applicant from the federal bureau 18741
of investigation in a criminal records check, the chief 18742
administrator shall request that the superintendent obtain 18743
information from the federal bureau of investigation as a part of 18744
the criminal records check for the applicant. If the applicant 18745
presents proof that the applicant has been a resident of this 18746
state for that five-year period, the chief administrator may 18747
request that the superintendent include information from the 18748
federal bureau of investigation in the criminal records check. 18749

(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, 18782
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 18783
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 18784
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 18785
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 18786
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 18787
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 18788
2925.06, or 3716.11 of the Revised Code, a violation of section 18789
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 18790
violation of section 2919.23 of the Revised Code that would have 18791
been a violation of section 2905.04 of the Revised Code as it 18792
existed prior to July 1, 1996, had the violation occurred prior to 18793
that date, a violation of section 2925.11 of the Revised Code that 18794
is not a minor drug possession offense, or felonious sexual 18795
penetration in violation of former section 2907.12 of the Revised 18796
Code; 18797

(b) A violation of an existing or former law of this state, 18798
any other state, or the United States that is substantially 18799
equivalent to any of the offenses or violations described in 18800
division (B)(1)(a) of this section. 18801

(2) A head start agency may employ an applicant conditionally 18802
until the criminal records check required by this section is 18803
completed and the agency receives the results of the criminal 18804
records check. If the results of the criminal records check 18805
indicate that, pursuant to division (B)(1) of this section, the 18806
applicant does not qualify for employment, the agency shall 18807
release the applicant from employment. 18808

(C)(1) Each head start agency shall pay to the bureau of 18809
criminal identification and investigation the fee prescribed 18810
pursuant to division (C)(3) of section 109.572 of the Revised Code 18811
for each criminal records check conducted in accordance with that 18812
section upon the request pursuant to division (A)(1) of this 18813

section of the chief administrator of the head start agency. 18814

(2) A head start agency may charge an applicant a fee for the 18815
costs it incurs in obtaining a criminal records check under this 18816
section. A fee charged under this division shall not exceed the 18817
amount of fees the agency pays under division (C)(1) of this 18818
section. If a fee is charged under this division, the agency shall 18819
notify the applicant at the time of the applicant's initial 18820
application for employment of the amount of the fee and that, 18821
unless the fee is paid, the head start agency will not consider 18822
the applicant for employment. 18823

(D) The report of any criminal records check conducted by the 18824
bureau of criminal identification and investigation in accordance 18825
with section 109.572 of the Revised Code and pursuant to a request 18826
made under division (A)(1) of this section is not a public record 18827
for the purposes of section 149.43 of the Revised Code and shall 18828
not be made available to any person other than the applicant who 18829
is the subject of the criminal records check or the applicant's 18830
representative, the head start agency requesting the criminal 18831
records check or its representative, and any court, hearing 18832
officer, or other necessary individual involved in a case dealing 18833
with the denial of employment to the applicant. 18834

(E) The director of job and family services shall adopt rules 18835
pursuant to Chapter 119. of the Revised Code to implement this 18836
section, including rules specifying circumstances under which a 18837
head start agency may hire a person who has been convicted of an 18838
offense listed in division (B)(1) of this section but who meets 18839
standards in regard to rehabilitation set by the director. 18840

(F) Any person required by division (A)(1) of this section to 18841
request a criminal records check shall inform each person, at the 18842
time of the person's initial application for employment, that the 18843
person is required to provide a set of impressions of the person's 18844

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 18875
facilitate closing the achievement gap between students of 18876
different subgroups. 18877

Sec. 3301.88. (A) A recipient of a grant under section 18878
3301.86 ~~or 3301.87~~ of the Revised Code ~~or an entity approved by~~ 18879
~~the OhioReads council~~ may request from the bureau of criminal 18880
identification and investigation a criminal records check on any 18881
individual, other than an individual described in division (B) of 18882
this section, who applies to participate in providing directly to 18883
children any program or service ~~through an entity approved by the~~ 18884
~~OhioReads council~~ ~~or~~ funded in whole or in part by the grant. If a 18885
recipient ~~or an entity approved by the OhioReads council~~ elects to 18886
request a criminal records check, the request shall consist of a 18887
request for the information a school district board of education 18888
may request under division (F)(2)(a) of section 109.57 of the 18889
Revised Code and shall be accompanied by one of the following 18890
identification options: 18891

(1) The form and standard impression sheet prescribed by the 18892
bureau under division (C) of section 109.572 of the Revised Code; 18893

(2) A form prescribed by the bureau on which is specified the 18894
individual's name, social security number, and date of birth. 18895

(B) A grant recipient ~~or an entity approved by the OhioReads~~ 18896
~~council~~ shall not request a criminal records check under division 18897
(A) of this section with respect to any individual who furnishes 18898
the grant recipient ~~or an entity approved by the OhioReads council~~ 18899
with a certified copy of a report of a criminal records check 18900
completed by the bureau within one year prior to applying to 18901
participate in providing programs or services ~~through an entity~~ 18902
~~approved by the OhioReads council~~ ~~or~~ under an OhioReads the grant. 18903

(C) Except as provided in rules adopted under division (G)(2) 18904
of this section, a grant recipient ~~or an entity approved by the~~ 18905

~~OhioReads council~~ shall not allow an individual to participate in 18906
providing directly to children any program or service ~~through an~~ 18907
~~entity approved by the OhioReads council or~~ funded in whole or in 18908
part by the grant if the information requested under this section 18909
from the bureau indicates that the individual has ever pleaded 18910
guilty to or been found guilty by a jury or court of any of the 18911
following: 18912

(1) A felony; 18913

(2) A violation of section 2903.16, 2903.34, 2905.05, 18914
2907.04, 2907.06, 2907.07, 2907.08, 2907.09, 2907.23, 2907.25, 18915
2907.31, 2919.12, 2919.22, 2919.24, 2925.04, or 3716.11 of the 18916
Revised Code; a violation of section 2905.04 of the Revised Code 18917
as it existed prior to July 1, 1996; or a violation of section 18918
2919.23 of the Revised Code that would have been a violation of 18919
section 2905.04 of the Revised Code as it existed prior to July 1, 18920
1996, had it been committed prior to that date; 18921

(3) An offense of violence; 18922

(4) A theft offense, as defined in section 2913.01 of the 18923
Revised Code; 18924

(5) A drug abuse offense, as defined in section 2925.01 of 18925
the Revised Code; 18926

(6) A violation of an existing or former ordinance of a 18927
municipal corporation or law of the United States or another state 18928
that is substantively comparable to an offense listed in divisions 18929
(C)(1) to (5) of this section. 18930

(D) A grant recipient ~~or an entity approved by the OhioReads~~ 18931
~~council~~ that elects to request criminal records checks may 18932
conditionally allow an individual to participate in providing 18933
programs or services directly to children until the criminal 18934
records check is completed and the grant recipient ~~or an entity~~ 18935
~~approved by the OhioReads council~~ receives the results. If the 18936

results of the criminal records check indicate that the individual 18937
has been convicted of or pleaded guilty to an offense listed in 18938
division (C) of this section, the grant recipient ~~or an entity~~ 18939
~~approved by the OhioReads council~~ shall not allow the individual 18940
to further participate in providing directly to children any 18941
program or service ~~through an entity approved by the OhioReads~~ 18942
~~council~~ or funded in whole or in part by the grant, except as 18943
provided in the rules adopted under division (G)(2) of this 18944
section. 18945

(E) The report of any criminal records check conducted in 18946
accordance with division (F)(5) of section 109.57 of the Revised 18947
Code pursuant to a request under this section is not a public 18948
record for purposes of section 149.43 of the Revised Code. The 18949
report shall not be made available to any person other than the 18950
individual who is the subject of the criminal records check or the 18951
individual's representative, the grant recipient or the grant 18952
recipient's representative ~~or an entity approved by the OhioReads~~ 18953
~~council~~, and any court, hearing officer, or other necessary 18954
individual in a case dealing with the denial of the individual's 18955
participation in a program or service ~~through an entity approved~~ 18956
~~by the OhioReads council~~ or funded by an OhioReads a grant awarded 18957
under section 3301.86 of the Revised Code. 18958

(F) The ~~OhioReads office~~ department of education shall 18959
reimburse each grant recipient ~~or an entity approved by the~~ 18960
~~OhioReads council~~ for each criminal records check the actual 18961
amount paid by the grant recipient ~~or an entity approved by the~~ 18962
~~OhioReads council~~ for the portion of the criminal records check 18963
conducted by the bureau of criminal identification and 18964
investigation. Reimbursement shall be paid under this division 18965
only for criminal records checks on individuals who apply to 18966
participate in providing directly to children any program or 18967
service ~~through an entity approved by the OhioReads council~~ or 18968

funded in whole or in part by the grant. To receive it, the grant recipient ~~or an entity approved by the OhioReads council~~ must submit information to the ~~office~~ department in the form and manner required by the ~~office~~ department. The reimbursement is in addition to the grant awarded to the recipient under section 3301.86 ~~or 3301.87~~ of the Revised Code.

(G) The ~~department~~ state board of education shall adopt rules in accordance with Chapter 119. of the Revised Code:

(1) Prescribing the form and manner in which grant recipients ~~or an entity approved by the OhioReads council~~ must submit information to the ~~OhioReads office~~ department to receive reimbursement under division (F) of this section;

(2) Specifying circumstances under which a grant recipient ~~or an entity approved by the OhioReads council~~ may allow an individual whose criminal records check report indicates that the individual has been convicted of or pleaded guilty to an offense listed in division (C) of this section, but who meets standards in regard to rehabilitation set forth in the rules, to participate in providing directly to children any program or service ~~through an entity approved by the OhioReads council~~ ~~or~~ funded in whole or in part by the grant.

Sec. 3310.01. As used in sections 3310.01 to 3310.17 of the Revised Code:

(A) An "eligible student" is a student who satisfies the conditions specified in section 3310.03 of the Revised Code.

(B) "Parent" has the same meaning as in section 3313.98 of the Revised Code.

(C) "Registered private school" means a nonpublic school registered with the superintendent of public instruction under section 3310.11 of the Revised Code to participate in the

educational choice scholarship program. 18999

(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. 19000
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(E) "School year" has the same meaning as in section 3313.62 of the Revised Code. 19003
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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. 19005
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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: 19015
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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. 19018
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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. 19024
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(3) The student was enrolled in the student's resident district or in a community school established under Chapter 3314. 19027
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of the Revised Code during the school year immediately prior to 19029
the school year for which a scholarship is sought under the 19030
educational choice scholarship program for the first time. 19031

(B) A student who receives a scholarship under the 19032
educational choice scholarship program remains an eligible student 19033
and may continue to receive scholarships in subsequent school 19034
years until the student completes grade twelve, so long as the 19035
student's resident district remains the same, regardless of the 19036
district's future academic rating. 19037

(C) The superintendent shall cease awarding first-time 19038
scholarships for students whose resident district, in the most 19039
recent ratings of school districts published under section 3302.03 19040
of the Revised Code prior to the first day of July of the school 19041
year, ceases to be in a state of academic emergency or academic 19042
watch. However, students who have received scholarships in the 19043
prior school year remain eligible students pursuant to division 19044
(B) of this section. 19045

Sec. 3310.04. Any eligible student who is enrolled in a 19046
registered private school and for whom a scholarship under the 19047
educational choice scholarship program has been awarded shall be 19048
entitled to transportation to and from the registered private 19049
school by the student's resident district in the manner prescribed 19050
in section 3327.01 of the Revised Code. 19051

Sec. 3310.05. A scholarship under the educational choice 19052
scholarship program is not available for any student whose 19053
resident district is a school district in which the pilot project 19054
scholarship program is operating under sections 3313.974 to 19055
3313.979 of the Revised Code. 19056

Sec. 3310.06. It is the policy adopted by the general 19057

assembly that the educational choice scholarship program shall be 19058
construed as one of several educational options available for 19059
students enrolled in academic watch or academic emergency school 19060
districts. Students may be enrolled in the schools of the 19061
student's resident district, in a community school established 19062
under Chapter 3314. of the Revised Code, in the schools of another 19063
school district pursuant to an open enrollment policy adopted 19064
under section 3313.98 of the Revised Code, in a registered private 19065
school with or without a scholarship under the educational choice 19066
scholarship program, or in other schools as the law may provide. 19067

Sec. 3310.07. Any parent, or any student who is at least 19068
eighteen years of age, who is seeking a scholarship under the 19069
educational choice scholarship program shall notify the department 19070
of education of the student's and parent's names and address, the 19071
registered private school in which the student has been accepted 19072
for enrollment, and the tuition charged by the school. 19073

Sec. 3310.08. (A) The amount paid for an eligible student 19074
under the educational choice scholarship program shall be the 19075
lesser of the actual cost per pupil of the registered private 19076
school in which the student is enrolled, as reported by the school 19077
to the superintendent of public instruction under section 3310.13 19078
of the Revised Code, or the maximum amount prescribed in section 19079
3310.09 of the Revised Code. 19080

(B)(1) The department shall pay to the parent of each 19081
eligible student for whom a scholarship is awarded under the 19082
program, or to the student if at least eighteen years of age, 19083
periodic partial payments of the scholarship in the same 19084
proportion to the total scholarship amount and at the same times 19085
as the department makes payments to community schools under 19086
section 3314.08 of the Revised Code. 19087

(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. 19088
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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. 19093
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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. 19099
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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: 19104
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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; 19109
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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. 19113
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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 19116
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the number of eligible students for whom deductions are made under 19119
division (C) of this section. 19120

Sec. 3310.09. (A) The maximum amount awarded to an eligible 19121
student in fiscal year 2007 under the educational choice 19122
scholarship program shall be as follows: 19123

(1) For grades kindergarten through four, four thousand 19124
dollars; 19125

(2) For grades five through eight, four thousand five hundred 19126
dollars; 19127

(3) For grades nine through twelve, five thousand dollars. 19128

(B) In fiscal year 2008 and in each fiscal year thereafter, 19129
the maximum amount awarded under the program shall be the 19130
applicable maximum amount awarded in the previous fiscal year 19131
increased by the rate of inflation, as measured by the rate of 19132
change in the consumer price index (all urban consumers, all 19133
items), prepared by the bureau of labor statistics of the United 19134
States department of labor, for the twelve-month period ending on 19135
the thirtieth day of June of the previous fiscal year. 19136

Sec. 3310.10. A scholarship awarded under section 3310.08 of 19137
the Revised Code may be used only to pay tuition to any registered 19138
private school. 19139

Sec. 3310.11. A nonpublic school shall not receive payments 19140
from a parent or student who is paid a scholarship under section 19141
3310.08 of the Revised Code until the chief administrator of the 19142
school registers the school with the superintendent of public 19143
instruction. The superintendent shall register any school that 19144
meets the following requirements: 19145

(A) The school indicates in writing its commitment to follow 19146

all requirements for the educational choice scholarship program 19147
specified under sections 3310.01 to 3310.17 of the Revised Code. 19148

(B) The school meets minimum education standards prescribed 19149
by the state board of education and satisfies at least one of the 19150
following conditions: 19151

(1) The school is chartered by the state board under section 19152
3301.16 of the Revised Code. 19153

(2) The school is accredited by a national organization that 19154
accredits schools that teach grades kindergarten through twelve. 19155

(3) The school has been in continuous operation for not less 19156
than five years, during which time the school has served not fewer 19157
than two-thirds the number of grade levels that the school will 19158
serve as a registered private school. 19159

(C) The school does not discriminate on the basis of race, 19160
religion, national origin, or ethnic background. 19161

(D) If the school does not have positions available for all 19162
of the applicants who wish to enroll in the school under such 19163
scholarship, as provided in the school's regular enrollment 19164
criteria, the school fills the available positions on a random 19165
selection basis or a first-come first-served basis, or some 19166
combination of both, except that the school may give priority to 19167
students previously enrolled in the school or to students who live 19168
in the same household as a student currently or previously 19169
enrolled in the school. 19170

(E) If the school is not chartered by the state board under 19171
section 3301.16 of the Revised Code, the school agrees to comply 19172
with section 3319.39 of the Revised Code as if it were a school 19173
district. 19174

(F) The school agrees to retain on file accurate and complete 19175
documentation of the following: 19176

<u>(1) Employee criminal records checks;</u>	19177
<u>(2) Student attendance records;</u>	19178
<u>(3) Records of tuition charges and payments for each student</u>	19179
<u>for whom a scholarship is paid under section 3310.08 of the</u>	19180
<u>Revised Code.</u>	19181
<u>Sec. 3310.12. Each registered private school shall file</u>	19182
<u>either of the following with the superintendent of public</u>	19183
<u>instruction:</u>	19184
<u>(A) A surety bond payable to the state in an amount equal to</u>	19185
<u>the greater of five hundred thousand dollars or the aggregate</u>	19186
<u>amount of scholarships paid under section 3310.08 of the Revised</u>	19187
<u>Code to students enrolled in the school in the previous school</u>	19188
<u>year;</u>	19189
<u>(B) An unconditional guarantee by a third party with a net</u>	19190
<u>worth of not less than ten million dollars, as determined by the</u>	19191
<u>auditor of state, of payment of any moneys that the school might</u>	19192
<u>owe to the state.</u>	19193
<u>Sec. 3310.13. (A) No registered private school shall charge</u>	19194
<u>any student whose family income is less than two hundred per cent</u>	19195
<u>of the federal poverty guidelines, as defined in section 5101.46</u>	19196
<u>of the Revised Code, a tuition fee that is greater than one</u>	19197
<u>hundred five per cent of the total amount paid for that student</u>	19198
<u>under section 3310.08 of the Revised Code.</u>	19199
<u>A registered private school may charge any other student who</u>	19200
<u>is paid a scholarship under that section the difference between</u>	19201
<u>the amount of the scholarship and the regular tuition charge of</u>	19202
<u>the school.</u>	19203
<u>(B) Each registered private school shall permit each eligible</u>	19204
<u>student's family, at the family's option, to provide volunteer</u>	19205

services in lieu of cash payment to pay all or part of the amount 19206
of the school's tuition not paid for by the scholarship paid under 19207
section 3310.08 of the Revised Code. 19208

(C) Each registered private school annually shall report to 19209
the superintendent of public instruction, in the manner prescribed 19210
by the superintendent, the actual cost per pupil of the school. 19211

Sec. 3310.14. Notwithstanding division (K) of section 19212
3301.0711 of the Revised Code, each registered private school that 19213
enrolls students awarded scholarships under sections 3310.01 to 19214
3310.17 of the Revised Code shall administer the achievement tests 19215
prescribed by section 3301.0710 of the Revised Code to each 19216
scholarship student in accordance with section 3301.0711 of the 19217
Revised Code. Nothing in this section requires a chartered 19218
nonpublic school to administer any achievement test, except for an 19219
Ohio graduation test prescribed by division (B) of section 19220
3301.0710 of the Revised Code, to any student enrolled in the 19221
school who is not a scholarship student. 19222

Sec. 3310.15. The superintendent of public instruction shall 19223
revoke the registration of any registered private school if, after 19224
a hearing, the superintendent determines that the school is in 19225
violation of any provision of section 3310.11, 3310.12, 3310.13, 19226
or 3310.14 of the Revised Code. 19227

Sec. 3310.16. (A) The state board of education shall adopt 19228
rules in accordance with Chapter 119. of the Revised Code 19229
prescribing procedures for the administration of the educational 19230
choice scholarship program that pertain to the following: 19231

(1) Registration of private schools; 19232

(2) Application for and determining eligibility for 19233
scholarships; 19234

<u>(3) Calculating, paying, and accounting for scholarship awards;</u>	19235
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<u>(4) Monitoring compliance with sections 3310.11 to 3310.14 of the Revised Code.</u>	19237
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<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>	19239
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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>	19244
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	19246
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	19247
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village school districts or members of the educational service 19265
centers' governing boards affected to be appointed by the boards 19266
of education or governing boards of such school districts and 19267
educational service centers. In such joint vocational school 19268
districts the number and terms of members of the joint vocational 19269
school district board of education and the allocation of a given 19270
number of members to each of the city and exempted village 19271
districts and educational service centers shall be determined in 19272
the plan for such district, provided that each such joint 19273
vocational school district board of education shall be composed of 19274
an odd number of members. 19275

(B) Notwithstanding division (A) of this section, a governing 19276
board of an educational service center that has members of its 19277
governing board serving on a joint vocational school district 19278
board of education may make a request to the joint vocational 19279
district board that the joint vocational school district plan be 19280
revised to provide for one or more members of boards of education 19281
of local school districts that are within the territory of the 19282
educational service district and within the joint vocational 19283
school district to serve in the place of or in addition to its 19284
educational service center governing board members. If agreement 19285
is obtained among a majority of the boards of education and 19286
governing boards that have a member serving on the joint 19287
vocational school district board of education and among a majority 19288
of the local school district boards of education included in the 19289
district and located within the territory of the educational 19290
service center whose board requests the substitution or addition, 19291
the state board of education may revise the joint vocational 19292
school district plan to conform with such agreement. 19293

(C) If the board of education of any school district or 19294
educational service center governing board included within a joint 19295
vocational district that has had its board or governing board 19296

membership revised under division (B) of this section requests the 19297
joint vocational school district board to submit to the state 19298
board of education a revised plan under which one or more joint 19299
vocational board members chosen in accordance with a plan revised 19300
under such division would again be chosen in the manner prescribed 19301
by division (A) of this section, the joint vocational board shall 19302
submit the revised plan to the state board of education, provided 19303
the plan is agreed to by a majority of the boards of education 19304
represented on the joint vocational board, a majority of the local 19305
school district boards included within the joint vocational 19306
district, and each educational service center governing board 19307
affected by such plan. The state board of education may revise the 19308
joint vocational school district plan to conform with the revised 19309
plan. 19310

(D) The vocational schools in such joint vocational school 19311
district shall be available to all youth of school age within the 19312
joint vocational school district subject to the rules adopted by 19313
the joint vocational school district board of education in regard 19314
to the standards requisite to admission. A joint vocational school 19315
district board of education shall have the same powers, duties, 19316
and authority for the management and operation of such joint 19317
vocational school district as is granted by law, except by this 19318
chapter and Chapters 124., 3317., 3323., and 3331. of the Revised 19319
Code, to a board of education of a city school district, and shall 19320
be subject to all the provisions of law that apply to a city 19321
school district, except such provisions in this chapter and 19322
Chapters 124., 3317., 3323., and 3331. of the Revised Code. 19323

(E) Where a governing board of an educational service center 19324
has been designated to serve as the joint vocational school 19325
district board of education, the educational service center 19326
superintendent shall be the executive officer for the joint 19327
vocational school district, and the governing board may provide 19328

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 19361
attendance at an approved training program, provided that such 19362
compensation shall not exceed sixty dollars per day for attendance 19363
at a training program three hours or fewer in length and one 19364
hundred twenty-five dollars a day for attendance at a training 19365
program longer than three hours in length. However, no board 19366
member shall be compensated for the same training program under 19367
this section and section 3313.12 of the Revised Code. 19368

Sec. 3313.12. Each member of the educational service center 19369
governing board may be paid such compensation as the governing 19370
board provides by resolution, provided that any such compensation 19371
shall not exceed one hundred twenty-five dollars a day plus 19372
mileage both ways, at the rate per mile provided by resolution of 19373
the governing board, for attendance at any meeting of the board. 19374
Such compensation and the expenses of the educational service 19375
center superintendent, itemized and verified, shall be paid from 19376
the educational service center governing board fund upon vouchers 19377
signed by the president of the governing board. 19378

The board of education of any city, local, or exempted 19379
village school district may provide by resolution for compensation 19380
of its members, provided that such compensation shall not exceed 19381
one hundred twenty-five dollars per member for meetings attended. 19382
The board may provide by resolution for the deduction of amounts 19383
payable for benefits under ~~division (D)~~ of section 3313.202 of the 19384
Revised Code. 19385

Each member of a district board or educational service center 19386
governing board may be paid such compensation as the respective 19387
board provides by resolution for attendance at an approved 19388
training program, provided that such compensation shall not exceed 19389
sixty dollars a day for attendance at a training program three 19390
hours or fewer in length and one hundred twenty-five dollars a day 19391

for attendance at a training program longer than three hours in
length. 19392
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~~Sec. 3313.202. (A) The board of education of a school 19394
district may procure and pay all or part of the cost of group term 19395
life, hospitalization, surgical care, or major medical insurance, 19396
disability, dental care, vision care, medical care, hearing aids, 19397
prescription drugs, sickness and accident insurance, group legal 19398
services, or a combination of any of the foregoing types of 19399
insurance or coverage, whether issued by an insurance company or a 19400
health insuring corporation duly licensed by this state, covering 19401
the teaching or nonteaching employees of the school district, or a 19402
combination of both, or the dependent children and spouses of such 19403
employees, provided if such coverage affects only the teaching 19404
employees of the district such coverage shall be with the consent 19405
of a majority of such employees of the school district, or if such 19406
coverage affects only the nonteaching employees of the district 19407
such coverage shall be with the consent of a majority of such 19408
employees. If such coverage is proposed to cover all the employees 19409
of a school district, both teaching and nonteaching employees, 19410
such coverage shall be with the consent of a majority of all the 19411
employees of a school district. A board of education shall 19412
continue to carry, on payroll records, all school employees whose 19413
sick leave accumulation has expired, or who are on a disability 19414
leave of absence or an approved leave of absence, for the purpose 19415
of group term life, hospitalization, surgical, major medical, or 19416
any other insurance. A board of education may pay all or part of 19417
such coverage except when such employees are on an approved leave 19418
of absence, or on a disability leave of absence for that period 19419
exceeding two years. As used in this section, "teaching employees" 19420
means any person employed in the public schools of this state in a 19421
position for which the person is required to have a certificate or 19422
license pursuant to sections 3319.22 to 3319.31 of the Revised 19423~~

~~Code. "Nonteaching employees" as used in this section means any 19424
person employed in the public schools of the state in a position 19425
for which the person is not required to have a certificate or 19426
license issued pursuant to sections 3319.22 to 3319.31 of the 19427
Revised Code. 19428~~

~~(B) The board of education of a school district may enter 19429
into an agreement with a jointly administered trust fund which 19430
receives contributions pursuant to a collective bargaining 19431
agreement entered into between the board and any collective 19432
bargaining representative of the employees of the board for the 19433
purpose of providing for self insurance of all risk in the 19434
provision of fringe benefits similar to those that may be paid 19435
pursuant to division (A) of this section, and may provide through 19436
the self insurance method specific fringe benefits as authorized 19437
by the rules of the board of trustees of the jointly administered 19438
trust fund. Benefits provided under this section include, but are 19439
not limited to, hospitalization, surgical care, major medical 19440
care, disability, dental care, vision care, medical care, hearing 19441
aids, prescription drugs, group life insurance, sickness and 19442
accident insurance, group legal services, or a combination of the 19443
above benefits, for the employees and their dependents. 19444~~

~~(C) Notwithstanding any other provision of the Revised Code, 19445
the board of education and any collective bargaining 19446
representative of employees of the board may agree in a collective 19447
bargaining agreement that any mutually agreed fringe benefit, 19448
including, but not limited to, hospitalization, surgical care, 19449
major medical care, disability, dental care, vision care, medical 19450
care, hearing aids, prescription drugs, group life insurance, 19451
sickness and accident insurance, group legal services, or a 19452
combination thereof, for employees and their dependents be 19453
provided through a mutually agreed upon contribution to a jointly 19454
administered trust fund. The amount, type, and structure of fringe 19455~~

~~benefits provided under this division are subject to the~~ 19456
~~determination of the board of trustees of the jointly administered~~ 19457
~~trust fund. Notwithstanding any other provision of the Revised~~ 19458
~~Code, competitive bidding does not apply to the purchase of fringe~~ 19459
~~benefits for employees under this division through a jointly~~ 19460
~~administered trust fund.~~ 19461

~~(D) Any elected or appointed member of the board of education~~ 19462
~~of a school district and the dependent children and spouse of the~~ 19463
~~member may be covered, at the option of the member, as an employee~~ 19464
~~of the school district under any benefit medical plan adopted~~ 19465
~~designed by the school employees health care board under this~~ 19466
~~section 9.901 of the Revised Code. The member shall pay to the~~ 19467
~~school district the amount certified all premiums for that~~ 19468
~~coverage under division (D)(1) or (2) of this section. Payments~~ 19469
~~for such coverage shall be made, in advance, in a manner~~ 19470
~~prescribed by the school employees health care board. The member's~~ 19471
~~exercise of an option to be covered under this section shall be in~~ 19472
~~writing, announced at a regular public meeting of the board of~~ 19473
~~education, and recorded as a public record in the minutes of the~~ 19474
~~board.~~ 19475

~~For the purposes of determining the cost to board members~~ 19476
~~under this division:~~ 19477

~~(1) In the case of a benefit plan purchased under division~~ 19478
~~(A) of this section, the provider of the benefits shall certify to~~ 19479
~~the board the provider's charge for coverage under each option~~ 19480
~~available to employees under that benefit plan;~~ 19481

~~(2) In the case of benefits provided under division (B) or~~ 19482
~~(C) of this section, the board of trustees of the jointly~~ 19483
~~administered trust fund shall certify to the board of education~~ 19484
~~the trustees' charge for coverage under each option available to~~ 19485
~~employees under each benefit plan.~~ 19486

~~(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 19515
determine the best and most efficient manner of providing latchkey 19516
programs to children residing in the district or territory. Prior 19517
to operating any latchkey program, making any payments, or 19518
providing any employees or ancillary services under sections 19519
3313.207 to 3313.209 of the Revised Code, a board ~~of education~~ 19520
shall provide notification to parents and other interested parties 19521
that the board is considering ~~district~~ participation in the 19522
provision of latchkey programs and shall adopt a policy ensuring 19523
public input on the board's decision whether or not to 19524
participate, as well as any decisions concerning the district's or 19525
service center's role in the implementation and funding of any 19526
latchkey programs if the board does decide to participate. The 19527
policy shall also include provision for regular, periodic public 19528
input in the evaluation of any school district or service center 19529
participation in the provision of latchkey programs. 19530

A board ~~of education~~ may ~~operate~~ provide a latchkey program, 19531
subject to the following limitations: 19532

(A) The program shall be maintained and operated and pupils 19533
shall be admitted pursuant to rules adopted by the board; 19534

(B) Fees or tuition, in amounts determined by the board, may 19535
be charged for participation in the program and shall be deposited 19536
in a special fund; 19537

~~(C) The board shall not expend any money from the general 19538
fund of the district for the program, except as follows: 19539~~

~~(1) The board may expend any money in the district's general 19540
fund resulting from an appropriation of the general assembly that 19541
specifically permits the expenditure of such appropriated funds 19542
for such a program. 19543~~

~~(2) The board may provide ancillary services for the program 19544
notwithstanding the fact that some portions of such services may 19545~~

~~be supported by money from the district's general fund.~~

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Sec. 3313.209. (A) A board of education of a school district that does not ~~operate~~ provide a latchkey program may provide ancillary services to and may make payments to any program provider that operates a latchkey program that enrolls one or more children who are residents of the school district.

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(B) A board of education of a school district that does not ~~operate~~ provide a latchkey program and that does not make payments under division (A) of this section may furnish to any person or entity that operates a latchkey program ancillary services or employees for use solely in conjunction with the program's operation.

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~~(C) No board of education shall expend any money from the general fund of the district pursuant to division (A) or (B) of this section, except as follows:~~

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~~(1) The board may expend any money in the district's general fund resulting from an appropriation of the general assembly that specifically permits the expenditure of such appropriated funds for latchkey programs.~~

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~~(2) The board may provide ancillary services pursuant to division (A) or (B) of this section notwithstanding the fact that some portion of such services may be supported by money from the district's general fund.~~

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~~(D)~~ A board of education shall enter into a contract with a program provider as a condition for making any payments or furnishing any ancillary services or employees authorized by division (A) or (B) of this section.

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Sec. 3313.33. (A) Conveyances made by a board of education shall be executed by the president and treasurer thereof.

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(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~~ 19605
five-year projection of revenues and expenditures submitted under 19606
section 5705.391 of the Revised Code and shall determine whether 19607
the information contained therein, together with any other 19608
relevant information, indicates that the district may be 19609
financially unable to operate its instructional program on all 19610
days set forth in its adopted school calendars and pay all 19611
obligated expenses during the current fiscal year. If a board of 19612
education has not adopted a school calendar for the school year 19613
beginning on the first day of July of the current fiscal year at 19614
the time an examination is required under this division, the 19615
superintendent shall examine the ~~spending plan and appropriations~~ 19616
~~measure~~ five-year projection and determine whether the district 19617
may be financially unable to pay all obligated expenses and 19618
operate its instructional program for the number of days on which 19619
instruction was held in the preceding fiscal year. 19620

(B) If the superintendent of public instruction determines 19621
pursuant to division (A) of this section that a school district 19622
may be financially unable to operate its instructional program on 19623
all days required by such division and pay all obligated expenses 19624
during the current fiscal year, the superintendent shall provide 19625
written notification of such determination to the president of the 19626
district's board of education and the auditor of state. 19627

(C) This section does not apply to a school district declared 19628
to be under a fiscal emergency pursuant to division (B) of section 19629
3316.03 of the Revised Code. 19630

Sec. 3313.975. As used in this section and in sections 19631
3313.975 to 3313.979 of the Revised Code, "the pilot project 19632
school district" or "the district" means any school district 19633
included in the pilot project scholarship program pursuant to this 19634
section. 19635

(A) The superintendent of public instruction shall establish 19636
a pilot project scholarship program and shall include in such 19637
program any school districts that are or have ever been under 19638
federal court order requiring supervision and operational 19639
management of the district by the state superintendent. The 19640
program shall provide for a number of students residing in any 19641
such district to receive scholarships to attend alternative 19642
schools, and for an equal number of students to receive tutorial 19643
assistance grants while attending public school in any such 19644
district. 19645

(B) The state superintendent shall establish an application 19646
process and deadline for accepting applications from students 19647
residing in the district to participate in the scholarship 19648
program. In the initial year of the program students may only use 19649
a scholarship to attend school in grades kindergarten through 19650
third. 19651

The state superintendent shall award as many scholarships and 19652
tutorial assistance grants as can be funded given the amount 19653
appropriated for the program. In no case, however, shall more than 19654
fifty per cent of all scholarships awarded be used by students who 19655
were enrolled in a nonpublic school during the school year of 19656
application for a scholarship. 19657

(C)(1) The pilot project program shall continue in effect 19658
each year that the general assembly has appropriated sufficient 19659
money to fund scholarships and tutorial assistance grants. In each 19660
year the program continues, no new students may receive 19661
scholarships unless they are enrolled in ~~grade~~ grades 19662
~~kindergarten, one, two, or three~~ to eight. However, any student 19663
who has received a scholarship the preceding year may continue to 19664
receive one until the student has completed grade ~~eight~~ ten. 19665
Beginning in the ~~2003-2004~~ 2005-2006 academic year, a student who 19666
previously has received a scholarship may receive a scholarship in 19667

grade ~~nine~~ eleven. Beginning in the ~~2004-2005~~ 2006-2007 academic 19668
year, a student who previously has received a scholarship may 19669
receive a scholarship in grade ~~ten~~ twelve. 19670

(2) If the general assembly discontinues the scholarship 19671
program, all students who are attending an alternative school 19672
under the pilot project shall be entitled to continued admittance 19673
to that specific school through all grades ~~up to the tenth grade~~ 19674
that are provided in such school, under the same conditions as 19675
when they were participating in the pilot project. The state 19676
superintendent shall continue to make scholarship payments in 19677
accordance with division (A) or (B) of section 3313.979 of the 19678
Revised Code for students who remain enrolled in an alternative 19679
school under this provision in any year that funds have been 19680
appropriated for this purpose. 19681

If funds are not appropriated, the tuition charged to the 19682
parents of a student who remains enrolled in an alternative school 19683
under this provision shall not be increased beyond the amount 19684
equal to the amount of the scholarship plus any additional amount 19685
charged that student's parent in the most recent year of 19686
attendance as a participant in the pilot project, except that 19687
tuition for all the students enrolled in such school may be 19688
increased by the same percentage. 19689

(D) Notwithstanding sections 124.39, 3307.54, and 3319.17 of 19690
the Revised Code, if the pilot project school district experiences 19691
a decrease in enrollment due to participation in a state-sponsored 19692
scholarship program pursuant to sections 3313.974 to 3313.979 of 19693
the Revised Code, the district board of education may enter into 19694
an agreement with any teacher it employs to provide to that 19695
teacher severance pay or early retirement incentives, or both, if 19696
the teacher agrees to terminate the employment contract with the 19697
district board, provided any collective bargaining agreement in 19698
force pursuant to Chapter 4117. of the Revised Code does not 19699

prohibit such an agreement for termination of a teacher's
employment contract. 19700
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Sec. 3313.976. (A) No private school may receive scholarship 19702
payments from parents pursuant to section 3313.979 of the Revised 19703
Code until the chief administrator of the private school registers 19704
the school with the superintendent of public instruction. The 19705
state superintendent shall register any school that meets the 19706
following requirements: 19707

(1) The school is located within the boundaries of the pilot 19708
project school district; 19709

(2) The school indicates in writing its commitment to follow 19710
all requirements for a state-sponsored scholarship program 19711
specified under sections 3313.974 to 3313.979 of the Revised Code, 19712
including, but not limited to, the requirements for admitting 19713
students pursuant to section 3313.977 of the Revised Code; 19714

(3) The school meets all state minimum standards for 19715
chartered nonpublic schools in effect on July 1, 1992, except that 19716
the state superintendent at the superintendent's discretion may 19717
register nonchartered nonpublic schools meeting the other 19718
requirements of this division; 19719

(4) The school does not discriminate on the basis of race, 19720
religion, or ethnic background; 19721

(5) The school enrolls a minimum of ten students per class or 19722
a sum of at least twenty-five students in all the classes offered; 19723

(6) The school does not advocate or foster unlawful behavior 19724
or teach hatred of any person or group on the basis of race, 19725
ethnicity, national origin, or religion; 19726

(7) The school does not provide false or misleading 19727
information about the school to parents, students, or the general 19728
public; 19729

(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. 19762

(C) Any public school located in a school district adjacent 19763
to the pilot project district may receive scholarship payments on 19764
behalf of parents pursuant to section 3313.979 of the Revised Code 19765
if the superintendent of the district in which such public school 19766
is located notifies the state superintendent prior to the first 19767
day of March that the district intends to admit students from the 19768
pilot project district for the ensuing school year pursuant to 19769
section 3327.06 of the Revised Code. 19770

(D) Any parent wishing to purchase tutorial assistance from 19771
any person or governmental entity pursuant to the pilot project 19772
program under sections 3313.974 to 3313.979 of the Revised Code 19773
shall apply to the state superintendent. The state superintendent 19774
shall approve providers who appear to possess the capability of 19775
furnishing the instructional services they are offering to 19776
provide. 19777

Sec. 3313.977. (A)(1) Each registered private school shall 19778
admit students to kindergarten and first, second, and third grades 19779
in accordance with the following priorities: 19780

(a) Students who were enrolled in the school during the 19781
preceding year; 19782

(b) Siblings of students enrolled in the school during the 19783
preceding year, at the discretion of the school; 19784

(c) Children from low-income families attending school or 19785
residing in the school district in which the school is located 19786
until the number of such students in each grade equals the number 19787
that constituted twenty per cent of the total number of students 19788
enrolled in the school during the preceding year in such grade. 19789
Admission of such twenty per cent shall be by lot from among all 19790
low-income family applicants who apply prior to the fifteenth day 19791

of February prior to admission. 19792

(d) All other applicants residing anywhere, provided that all 19793
remaining available spaces shall be filled from among such 19794
applicants by lot. 19795

Children from low-income families not selected by lot under 19796
division (A)(1)(c) of this section shall be included in the 19797
lottery of all remaining applicants pursuant to division (A)(1)(d) 19798
of this section. 19799

(2) Each registered private school shall first admit to 19800
grades four through ~~ten~~ twelve students who were enrolled in the 19801
school during the preceding year. Any remaining spaces for 19802
students in these grades may be filled as determined by the 19803
school. 19804

(B) Notwithstanding division (A) of this section, except 19805
where otherwise prohibited by federal law, a registered private 19806
school may elect to admit students of only one gender and may deny 19807
admission to any separately educated handicapped student. 19808

(C) If a scholarship student who has been accepted in 19809
accordance with this section fails to enroll in the school for any 19810
reason or withdraws from the school during the school year for any 19811
reason, the school may elect to replace such student with another 19812
scholarship student only by first offering the admission to any 19813
low-income scholarship students who filed applications by the 19814
preceding fifteenth day of February and who were not accepted at 19815
that time due to space limitations. 19816

Sec. 3313.978. (A) Annually by the first day of November, the 19817
superintendent of public instruction shall notify the pilot 19818
project school district of the number of initial scholarships that 19819
the state superintendent will be awarding in each of grades 19820
kindergarten through third. 19821

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 19885
income level established by the state superintendent for 19886
low-income families shall qualify for seventy-five per cent of the 19887
grant amount and students whose family income is below two hundred 19888
per cent of that maximum income level shall qualify for ninety per 19889
cent of the grant amount. 19890

(C)(1) In the case of basic scholarships for students in 19891
grades kindergarten through eight, the scholarship amount shall 19892
not exceed the lesser of the tuition charges of the alternative 19893
school the scholarship recipient attends or an amount established 19894
by the state superintendent not in excess of three thousand 19895
dollars. 19896

In the case of basic scholarships for students in grades nine 19897
~~and ten~~ through twelve, the scholarship amount shall not exceed 19898
the lesser of the tuition charges of the alternative school the 19899
scholarship recipient attends or an amount established by the 19900
state superintendent not in excess of two thousand seven hundred 19901
dollars. 19902

(2) The state superintendent shall provide for an increase in 19903
the basic scholarship amount in the case of any student who is a 19904
mainstreamed handicapped student and shall further increase such 19905
amount in the case of any separately educated handicapped child. 19906
Such increases shall take into account the instruction, related 19907
services, and transportation costs of educating such students. 19908

(3) In the case of tutorial assistance grants, the grant 19909
amount shall not exceed the lesser of the provider's actual 19910
charges for such assistance or a percentage established by the 19911
state superintendent, not to exceed twenty per cent, of the amount 19912
of the pilot project school district's average basic scholarship 19913
amount. 19914

(4) No scholarship or tutorial assistance grant shall be 19915

awarded unless the state superintendent determines that 19916
twenty-five or ten per cent, as applicable, of the amount 19917
specified for such scholarship or grant pursuant to division 19918
(C)(1), (2), or (3) of this section will be furnished by a 19919
political subdivision, a private nonprofit or for profit entity, 19920
or another person. Only seventy-five or ninety per cent of such 19921
amounts, as applicable, shall be paid from state funds pursuant to 19922
section 3313.979 of the Revised Code. 19923

(D)(1) Annually by the first day of November, the state 19924
superintendent shall estimate the maximum per-pupil scholarship 19925
amounts for the ensuing school year. The state superintendent 19926
shall make this estimate available to the general public at the 19927
offices of the district board of education together with the forms 19928
required by division (D)(2) of this section. 19929

(2) Annually by the fifteenth day of January, the chief 19930
administrator of each registered private school located in the 19931
pilot project district and the principal of each public school in 19932
such district shall complete a parental information form and 19933
forward it to the president of the board of education. The 19934
parental information form shall be prescribed by the department of 19935
education and shall provide information about the grade levels 19936
offered, the numbers of students, tuition amounts, achievement 19937
test results, and any sectarian or other organizational 19938
affiliations. 19939

Sec. 3313.98. Notwithstanding division (D) of section 3311.19 19940
and division (D) of section 3311.52 of the Revised Code, the 19941
provisions of this section and sections 3313.981 to 3313.983 of 19942
the Revised Code that apply to a city school district do not apply 19943
to a joint vocational or cooperative education school district 19944
unless expressly specified. 19945

(A) As used in this section and sections 3313.981 to 3313.983 19946

of the Revised Code:	19947
(1) "Parent" means either of the natural or adoptive parents of a student, except under the following conditions:	19948
(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.	19949
(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.	19950
(c) When a court has appointed a guardian for the student, "parent" means the guardian of the student.	19951
(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.	19952
(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.	19953
(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.	19954
(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	19955
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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 an other district. 20007
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(12) "Other district joint vocational student" means a student who is enrolled in any city, exempted village, or local school district and who also enrolls in a joint vocational school district that does not contain the territory of the district for which that student is a native student in accordance with a policy adopted under section 3313.983 of the Revised Code. 20009
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(B)(1) The board of education of each city, local, and exempted village school district shall adopt a resolution establishing for the school district one of the following policies: 20015
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(a) A policy that entirely prohibits the enrollment of students from adjacent districts or other districts, other than students for whom tuition is paid in accordance with section 3317.08 of the Revised Code; 20019
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(b) A policy that permits enrollment of students from all adjacent districts in accordance with policy statements contained in the resolution; 20023
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(c) A policy that permits enrollment of students from all other districts in accordance with policy statements contained in the resolution. 20026
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(2) A policy permitting enrollment of students from adjacent or from other districts, as applicable, shall provide for all of the following: 20029
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(a) Application procedures, including deadlines for application and for notification of students and the superintendent of the applicable district whenever an adjacent or other district student's application is approved. 20032
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(b) Procedures for admitting adjacent or other district 20036

applicants free of any tuition obligation to the district's schools, including, but not limited to: 20037
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(i) The establishment of district capacity limits by grade level, school building, and education program; 20039
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(ii) A requirement that all native students wishing to be enrolled in the district will be enrolled and that any adjacent or other district students previously enrolled in the district shall receive preference over first-time applicants; 20041
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(iii) Procedures to ensure that an appropriate racial balance is maintained in the district schools. 20045
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(C) Except as provided in section 3313.982 of the Revised Code, the procedures for admitting adjacent or other district students, as applicable, shall not include: 20047
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(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills; 20050
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(2) Limitations on admitting applicants because of handicapping conditions, except that a board may refuse to admit a student receiving services under Chapter 3323. of the Revised Code, if the services described in the student's IEP are not available in the district's schools; 20052
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(3) A requirement that the student be proficient in the English language; 20057
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(4) Rejection of any applicant because the student has been subject to disciplinary proceedings, except that if an applicant has been suspended or expelled by the student's district for ten consecutive days or more in the term for which admission is sought or in the term immediately preceding the term for which admission is sought, the procedures may include a provision denying admission of such applicant. 20059
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(D)(1) Each school board permitting only enrollment of 20066

adjacent district students shall provide information about the
policy adopted under this section, including the application
procedures and deadlines, to the superintendent and the board of
education of each adjacent district and, upon request, to the
parent of any adjacent district student.

(2) Each school board permitting enrollment of other district
students shall provide information about the policy adopted under
this section, including the application procedures and deadlines,
upon request, to the board of education of any other school
district or to the parent of any student anywhere in the state.

(E) Any school board shall accept all credits toward
graduation earned in adjacent or other district schools by an
adjacent or other district student or a native student.

(F)(1) No board of education may adopt a policy discouraging
or prohibiting its native students from applying to enroll in the
schools of an adjacent or any other district that has adopted a
policy permitting such enrollment, except that:

(a) A district may object to the enrollment of a native
student in an adjacent or other district in order to maintain an
appropriate racial balance.

(b) The board of education of a district receiving funds
under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended,
may adopt a resolution objecting to the enrollment of its native
students in adjacent or other districts if at least ten per cent
of its students are included in the determination of the United
States secretary of education made under section 20 U.S.C.A.
238(a).

(2) If a board objects to enrollment of native students under
this division, any adjacent or other district shall refuse to
enroll such native students unless tuition is paid for the
students in accordance with section 3317.08 of the Revised Code.

An adjacent or other district enrolling such students may not
receive funding for those students in accordance with section
3313.981 of the Revised Code. 20098
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(G) The state board of education shall monitor school
districts to ensure compliance with this section and the
districts' policies. The board may adopt rules requiring uniform
application procedures, deadlines for application, notification
procedures, and record-keeping requirements for all school boards
that adopt policies permitting the enrollment of adjacent or other
district students, as applicable. If the state board adopts such
rules, no school board shall adopt a policy that conflicts with
those rules. 20101
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(H) A resolution adopted by a board of education under this
section that entirely prohibits the enrollment of students from
adjacent and from other school districts does not abrogate any
agreement entered into under section 3313.841 or 3313.92 of the
Revised Code or any contract entered into under section 3313.90 of
the Revised Code between the board of education adopting the
resolution and the board of education of any adjacent or other
district or prohibit these boards of education from entering into
any such agreement or contract. 20110
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(I) Nothing in this section shall be construed to permit or
require the board of education of a city, exempted village, or
local school district to exclude any native student of the
district from enrolling in the district. 20119
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Sec. 3314.013. (A)(1) Until July 1, 2000, no more than
seventy-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. 20123
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(2) After July 1, 2000, and until July 1, 2001, no more than 20127

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. 20128
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(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. 20131
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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. 20135
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(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. 20138
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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. 20144
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(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. 20147
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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. 20153
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(6) No entity described in division (C)(1) of section 3314.02 20157

of the Revised Code shall enter into a contract with an internet- 20158
or computer-based community school for one year after the 20159
effective date of this amendment, except as follows: 20160

(a) Any entity described in division (C)(1) of that section 20161
may renew a contract that the entity entered into with an 20162
internet- or computer-based community school prior to the 20163
effective date of this amendment. 20164

(b) Any entity described in divisions (C)(1)(a) to (e) of 20165
that section may assume sponsorship of an existing internet- or 20166
computer-based community school that was formerly sponsored by 20167
another entity and may enter into a contract with that community 20168
school in accordance with section 3314.03 of the Revised Code. 20169

(c) Any entity described in division (C)(1)(f) of that 20170
section may assume sponsorship of an existing internet- or 20171
computer-based community school in accordance with division (A)(7) 20172
of this section and may enter into a contract with that community 20173
school in accordance with section 3314.03 of the Revised Code. 20174

(7) Until July 1, 2005, any entity described in division 20175
(C)(1)(f) of section 3314.02 of the Revised Code may sponsor only 20176
a community school that formerly was sponsored by the state board 20177
of education under division (C)(1)(d) of that section, as it 20178
existed prior to April 8, 2003. After July 1, 2005, any such 20179
entity may assume sponsorship of any existing community school, 20180
and may sponsor any new community school that is not an internet- 20181
or computer-based community school. Beginning one year after the 20182
effective date of this amendment, any such entity may sponsor a 20183
new internet- or computer-based community school. 20184

(8) Nothing in division (A) of this section prohibits a 20185
community school from increasing the number of grade levels it 20186
offers. 20187

(B) Within twenty-four hours of a request by any person, the 20188

superintendent of public instruction shall indicate the number of
preliminary agreements for start-up schools currently outstanding
and the number of contracts for these schools in effect at the
time of the request.

(C) It is the intent of the general assembly to consider
whether to provide limitations on the number of start-up community
schools after July 1, 2001, following its examination of the
results of the studies by the legislative office of education
oversight required under Section 50.39 of Am. Sub. H.B. No. 215 of
the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B.
No. 215 of the 122nd general assembly, as amended by Am. Sub. H.B.
No. 770 of the 122nd general assembly.

Sec. 3314.015. (A) The department of education shall be
responsible for the oversight of sponsors of the community schools
established under this chapter and shall provide technical
assistance to schools and sponsors in their compliance with
applicable laws and the terms of the contracts entered into under
section 3314.03 of the Revised Code and in the development and
start-up activities of those schools. In carrying out its duties
under this section, the department shall do all of the following:

(1) In providing technical assistance to proposing parties,
governing authorities, and sponsors, conduct training sessions and
distribute informational materials;

(2) Approve entities to be sponsors of community schools and
monitor the effectiveness of those sponsors in their oversight of
the schools with which they have contracted;

(3) By December thirty-first of each year, issue a report to
the governor, the speaker of the house of representatives, the
president of the senate, and the chairpersons of the house and
senate committees principally responsible for education matters

regarding the effectiveness of academic programs, operations, and 20219
legal compliance and of the financial condition of all community 20220
schools established under this chapter; 20221

(4) From time to time, make legislative recommendations to 20222
the general assembly designed to enhance the operation and 20223
performance of community schools. 20224

(B)(1) No entity listed in division (C)(1) of section 3314.02 20225
of the Revised Code shall enter into a preliminary agreement under 20226
division (C)(2) of section 3314.02 of the Revised Code until it 20227
has received approval from the department of education to sponsor 20228
community schools under this chapter and has entered into a 20229
written agreement with the department regarding the manner in 20230
which the entity will conduct such sponsorship. The department 20231
shall adopt in accordance with Chapter 119. of the Revised Code 20232
rules containing criteria, procedures, and deadlines for 20233
processing applications for such approval, for oversight of 20234
sponsors, for revocation of the approval of sponsors, and for 20235
entering into written agreements with sponsors. The rules shall 20236
require an entity to submit evidence of the entity's ability and 20237
willingness to comply with the provisions of division (D) of 20238
section 3314.03 of the Revised Code. The rules also shall require 20239
entities approved as sponsors on and after the effective date of 20240
this amendment to demonstrate a record of financial responsibility 20241
and successful implementation of educational programs. If an 20242
entity seeking approval on or after the effective date of this 20243
amendment to sponsor community schools in this state sponsors or 20244
operates schools in another state, at least one of the schools 20245
sponsored or operated by the entity must be comparable to or 20246
better than the performance of Ohio schools in a state of academic 20247
watch under section 3302.03 of the Revised Code, as determined by 20248
the department. 20249

An entity described in division (C)(1)(a), (b), (c), (d), or 20250

(f) of section 3314.02 of the Revised Code that is approved to 20251
sponsor community schools may enter into ~~any number of~~ preliminary 20252
agreements and sponsor ~~any number of~~ not more than thirty-five 20253
schools, provided each school and the contract for sponsorship 20254
meets the requirements of this chapter, except that the department 20255
on a case-by-case basis may permit an entity to sponsor up to 20256
fifty schools. However, any school the mission of which, as 20257
specified under division (A)(2) of section 3314.03 of the Revised 20258
Code, is solely to serve dropouts shall not be counted toward the 20259
limit imposed by this paragraph. This paragraph does not apply to 20260
entities described in division (C)(1)(e) of section 3314.02 of the 20261
Revised Code. 20262

Upon approval of an entity to be a sponsor under this 20263
division, the department shall notify the entity of the number of 20264
schools the entity may sponsor. If at any time a sponsor exceeds 20265
the number of schools it may sponsor under this division, the 20266
department shall assume sponsorship of the schools in excess of 20267
the sponsor's authorized number in accordance with division (C) of 20268
this section. Those schools for which the department assumes 20269
sponsorship shall be the schools that most recently entered into 20270
contracts with the sponsor under section 3314.03 of the Revised 20271
Code. 20272

(2) The department of education shall determine, pursuant to 20273
criteria adopted by rule of the department, whether the mission 20274
proposed to be specified in the contract of a community school to 20275
be sponsored by a state university board of trustees or the 20276
board's designee under division (C)(1)(e) of section 3314.02 of 20277
the Revised Code complies with the requirements of that division. 20278
Such determination of the department is final. 20279

(3) The department of education shall determine, pursuant to 20280
criteria adopted by rule of the department, if any tax-exempt 20281
entity under section 501(c)(3) of the Internal Revenue Code that 20282

is proposed to be a sponsor of a community school is an 20283
education-oriented entity for purpose of satisfying the condition 20284
prescribed in division (C)(1)~~(e)(iv)~~(f)(iii) of section 3314.02 of 20285
the Revised Code. Such determination of the department is final. 20286

(C) If at any time the state board of education finds that a 20287
sponsor is not in compliance or is no longer willing to comply 20288
with its contract with any community school or with the 20289
department's rules for sponsorship, the state board or designee 20290
shall conduct a hearing in accordance with Chapter 119. of the 20291
Revised Code on that matter. If after the hearing, the state board 20292
or designee has confirmed the original finding, the department of 20293
education may revoke the sponsor's approval to sponsor community 20294
schools and may assume the sponsorship of any schools with which 20295
the sponsor has contracted until the earlier of the expiration of 20296
two school years or until a new sponsor as described in division 20297
(C)(1) of section 3314.02 of the Revised Code is secured by the 20298
school's governing authority. The department may extend the term 20299
of the contract in the case of a school for which it has assumed 20300
sponsorship under this division as necessary to accommodate the 20301
term of the department's authorization to sponsor the school 20302
specified in this division. 20303

(D) The decision of the department to disapprove an entity 20304
for sponsorship of a community school or to revoke approval for 20305
such sponsorship, as provided in division (C) of this section, may 20306
be appealed by the entity in accordance with section 119.12 of the 20307
Revised Code. 20308

(E) In carrying out its duties under this chapter, the 20309
department shall not impose requirements on community schools or 20310
their sponsors that are not permitted by law or duly adopted 20311
rules. 20312

Sec. 3314.02. (A) As used in this chapter: 20313

(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 20344
to July 1, 1998. 20345

(7) "Internet- or computer-based community school" means a 20346
community school established under this chapter in which the 20347
enrolled students work primarily from their residences on 20348
assignments in nonclassroom-based learning opportunities provided 20349
via an internet- or other computer-based instructional method that 20350
does not rely on regular classroom instruction or via 20351
comprehensive instructional methods that include internet-based, 20352
other computer-based, and noncomputer-based learning 20353
opportunities. 20354

(B) Any person or group of individuals may initially propose 20355
under this division the conversion of all or a portion of a public 20356
school to a community school. The proposal shall be made to the 20357
board of education of the city, local, or exempted village school 20358
district in which the public school is proposed to be converted. 20359
Upon receipt of a proposal, a board may enter into a preliminary 20360
agreement with the person or group proposing the conversion of the 20361
public school, indicating the intention of the board of education 20362
to support the conversion to a community school. A proposing 20363
person or group that has a preliminary agreement under this 20364
division may proceed to finalize plans for the school, establish a 20365
governing authority for the school, and negotiate a contract with 20366
the board of education. Provided the proposing person or group 20367
adheres to the preliminary agreement and all provisions of this 20368
chapter, the board of education shall negotiate in good faith to 20369
enter into a contract in accordance with section 3314.03 of the 20370
Revised Code and division (C) of this section. 20371

(C)(1) Any person or group of individuals may propose under 20372
this division the establishment of a new start-up school to be 20373
located in a challenged school district. The proposal may be made 20374
to any of the following entities: 20375

(a) The board of education of the district in which the school is proposed to be located;	20376 20377
(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;	20378 20379 20380 20381
(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;	20382 20383 20384 20385
(d) The governing board of any educational service center;	20386
(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;	20387 20388 20389 20390 20391 20392 20393 20394 20395 20396 20397
(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:	20398 20399 20400
(i) The entity has been in operation for at least five years prior to applying to be a community school sponsor.	20401 20402
(ii) The entity has assets of at least five hundred thousand dollars.	20403 20404
(iii) The department of education has determined that the	20405

entity is an education-oriented entity under division (B)(3) of 20406
section 3314.015 of the Revised Code. 20407

~~Until July 1, 2005, any entity described in division 20408
(C)(1)(f) of this section may sponsor only schools that formerly 20409
were sponsored by the state board of education under division 20410
(C)(1)(d) of this section, as it existed prior to April 8, 2003. 20411
After July 1, 2005, such entity may sponsor any new or existing 20412
school. 20413~~

Any entity described in division (C)(1) of this section may 20414
enter into a preliminary agreement pursuant to division (C)(2) of 20415
this section with the proposing person or group. 20416

(2) A preliminary agreement indicates the intention of an 20417
entity described in division (C)(1) of this section to sponsor the 20418
community school. A proposing person or group that has such a 20419
preliminary agreement may proceed to finalize plans for the 20420
school, establish a governing authority as described in division 20421
(E) of this section for the school, and negotiate a contract with 20422
the entity. Provided the proposing person or group adheres to the 20423
preliminary agreement and all provisions of this chapter, the 20424
entity shall negotiate in good faith to enter into a contract in 20425
accordance with section 3314.03 of the Revised Code. 20426

(3) A new start-up school that is established in a school 20427
district while that district is either in a state of academic 20428
emergency or in a state of academic watch under section 3302.03 of 20429
the Revised Code may continue in existence once the school 20430
district is no longer in a state of academic emergency or academic 20431
watch, provided there is a valid contract between the school and a 20432
sponsor. 20433

(4) A copy of every preliminary agreement entered into under 20434
this division shall be filed with the superintendent of public 20435
instruction. 20436

(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 20468
continue to operate after ~~the effective~~ that date ~~of this~~ 20469
~~amendment~~ and the contract between the school's governing 20470
authority and the school's sponsor may be renewed, as provided 20471
under this chapter, after ~~the effective~~ that date ~~of this~~ 20472
~~amendment~~, but no additional new start-up schools may be 20473
established in such a district unless the district is a challenged 20474
school district as defined in this section as it exists on and 20475
after ~~the effective~~ that date ~~of this amendment~~. 20476

Sec. 3314.021. (A) This section applies to any entity that is 20477
exempt from taxation under section 501(c)(3) of the Internal 20478
Revenue Code and that satisfies the conditions specified in 20479
divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the 20480
Revised Code but does not satisfy the condition specified in 20481
division (C)(1)(f)(i) of that section. 20482

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 20483
of the Revised Code, an entity described in division (A) of this 20484
section may do both of the following without obtaining the 20485
department of education's approval of its sponsorship under 20486
division (B)(1) of section 3314.015 of the Revised Code: 20487

(1) Succeed the board of trustees of a state university 20488
located in the pilot project area or that board's designee as the 20489
sponsor of a community school established under this chapter; 20490

(2) Continue to sponsor that school in conformance with the 20491
terms of the contract between the board of trustees or its 20492
designee and the governing authority of the community school and 20493
renew that contract as provided in division (E) of section 3314.03 20494
of the Revised Code. 20495

(C) The entity that succeeds the board of trustees or the 20496
board's designee as sponsor of a community school under division 20497
(B) of this section also may enter into contracts to sponsor other 20498

community schools located in any challenged school district, 20499
without obtaining the department's approval of its sponsorship 20500
under division (B)(1) of section 3314.015 of the Revised Code, and 20501
not subject to the restriction of ~~the paragraph following division~~ 20502
~~(C)(1)(f)(iii)~~ division (A)(5) of section ~~3314.02~~ 3314.013 of the 20503
Revised Code, as long as the contracts conform with and the entity 20504
complies with all other requirements of this chapter. 20505

Sec. 3314.03. A copy of every contract entered into under 20506
this section shall be filed with the superintendent of public 20507
instruction. 20508

(A) Each contract entered into between a sponsor and the 20509
governing authority of a community school shall specify the 20510
following: 20511

(1) That the school shall be established as either of the 20512
following: 20513

(a) A nonprofit corporation established under Chapter 1702. 20514
of the Revised Code, if established prior to April 8, 2003; 20515

(b) A public benefit corporation established under Chapter 20516
1702. of the Revised Code, if established after April 8, 2003; 20517

(2) The education program of the school, including the 20518
school's mission, the characteristics of the students the school 20519
is expected to attract, the ages and grades of students, and the 20520
focus of the curriculum; 20521

(3) The academic goals to be achieved and the method of 20522
measurement that will be used to determine progress toward those 20523
goals, which shall include the statewide achievement tests; 20524

(4) Performance standards by which the success of the school 20525
will be evaluated by the sponsor; 20526

(5) The admission standards of section 3314.06 of the Revised 20527

Code <u>and, if applicable, section 3314.061 of the Revised Code;</u>	20528
(6)(a) Dismissal procedures;	20529
(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.	20530 20531 20532 20533 20534 20535 20536 20537
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	20538 20539
(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.	20540 20541 20542 20543 20544 20545
(9) The facilities to be used and their locations;	20546
(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;	20547 20548 20549 20550 20551 20552
(11) That the school will comply with the following requirements:	20553 20554
(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;	20555 20556 20557

(b) The governing authority will purchase liability 20558
insurance, or otherwise provide for the potential liability of the 20559
school; 20560

(c) The school will be nonsectarian in its programs, 20561
admission policies, employment practices, and all other 20562
operations, and will not be operated by a sectarian school or 20563
religious institution; 20564

(d) The school will comply with sections 9.90, 9.91, 109.65, 20565
121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 20566
3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643, 20567
3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671, 20568
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.80, 3313.96, 20569
3319.073, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 3321.17, 20570
3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 20571
5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 20572
4123., 4141., and 4167. of the Revised Code as if it were a school 20573
district and will comply with section 3301.0714 of the Revised 20574
Code in the manner specified in section 3314.17 of the Revised 20575
Code; 20576

(e) The school shall comply with Chapter 102. of the Revised 20577
Code except that nothing in that chapter shall prohibit a member 20578
of the school's governing board from also being an employee of the 20579
school and nothing in that chapter or section 2921.42 of the 20580
Revised Code shall prohibit a member of the school's governing 20581
board from having an interest in a contract into which the 20582
governing board enters that is not a contract with a for-profit 20583
firm for the operation or management of a school under the 20584
auspices of the governing authority; 20585

(f) The school will comply with sections 3313.61, 3313.611, 20586
and 3313.614 of the Revised Code, except that the requirement in 20587
sections 3313.61 and 3313.611 of the Revised Code that a person 20588

must successfully complete the curriculum in any high school prior 20589
to receiving a high school diploma may be met by completing the 20590
curriculum adopted by the governing authority of the community 20591
school rather than the curriculum specified in Title XXXVIII of the 20592
Revised Code or any rules of the state board of education; 20593

(g) The school governing authority will submit within four 20594
months after the end of each school year a report of its 20595
activities and progress in meeting the goals and standards of 20596
divisions (A)(3) and (4) of this section and its financial status 20597
to the sponsor, the parents of all students enrolled in the 20598
school, and the legislative office of education oversight. The 20599
school will collect and provide any data that the legislative 20600
office of education oversight requests in furtherance of any study 20601
or research that the general assembly requires the office to 20602
conduct, including the studies required under Section 50.39 of Am. 20603
Sub. H.B. 215 of the 122nd general assembly and Section 50.52.2 of 20604
Am. Sub. H.B. 215 of the 122nd general assembly, as amended. 20605

(12) Arrangements for providing health and other benefits to 20606
employees~~r~~. All health benefits shall be provided pursuant to 20607
section 9.901 of the Revised Code. 20608

(13) The length of the contract, which shall begin at the 20609
beginning of an academic year. No contract shall exceed five years 20610
unless such contract has been renewed pursuant to division (E) of 20611
this section. 20612

(14) The governing authority of the school, which shall be 20613
responsible for carrying out the provisions of the contract; 20614

(15) A financial plan detailing an estimated school budget 20615
for each year of the period of the contract and specifying the 20616
total estimated per pupil expenditure amount for each such year. 20617
The plan shall specify for each year the base formula amount that 20618
will be used for purposes of funding calculations under section 20619

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; 20651

(c) Permit the enrollment of students who reside in any other 20652
district in the state. 20653

(20) A provision recognizing the authority of the department 20654
of education to take over the sponsorship of the school in 20655
accordance with the provisions of division (C) of section 3314.015 20656
of the Revised Code; 20657

(21) A provision recognizing the sponsor's authority to 20658
assume the operation of a school under the conditions specified in 20659
division (B) of section 3314.073 of the Revised Code; 20660

(22) A provision recognizing both of the following: 20661

(a) The authority of public health and safety officials to 20662
inspect the facilities of the school and to order the facilities 20663
closed if those officials find that the facilities are not in 20664
compliance with health and safety laws and regulations; 20665

(b) The authority of the department of education as the 20666
community school oversight body to suspend the operation of the 20667
school under section 3314.072 of the Revised Code if the 20668
department has evidence of conditions or violations of law at the 20669
school that pose an imminent danger to the health and safety of 20670
the school's students and employees and the sponsor refuses to 20671
take such action; 20672

(23) A description of the learning opportunities that will be 20673
offered to students including both classroom-based and 20674
non-classroom-based learning opportunities that is in compliance 20675
with criteria for student participation established by the 20676
department under division (L)(2) of section 3314.08 of the Revised 20677
Code; 20678

(24) The school will comply with section 3302.04 of the 20679
Revised Code, including division (E) of that section to the extent 20680

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. 20681
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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. 20685
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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: 20694
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(1) The process by which the governing authority of the school will be selected in the future; 20697
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(2) The management and administration of the school; 20699

(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; 20700
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(4) The instructional program and educational philosophy of the school; 20704
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(5) Internal financial controls. 20706

(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 20707
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authorized to receive such payments as set forth in the contract 20711
between the governing authority and the sponsor. The total amount 20712
of such payments for oversight and monitoring of the school shall 20713
not exceed three per cent of the total amount of payments for 20714
operating expenses that the school receives from the state. 20715

(D) The contract shall specify the duties of the sponsor 20716
which shall be in accordance with the written agreement entered 20717
into with the department of education under division (B) of 20718
section 3314.015 of the Revised Code and shall include the 20719
following: 20720

(1) Monitor the community school's compliance with all laws 20721
applicable to the school and with the terms of the contract; 20722

(2) Monitor and evaluate the academic and fiscal performance 20723
and the organization and operation of the community school on at 20724
least an annual basis; 20725

(3) Report on an annual basis the results of the evaluation 20726
conducted under division (D)(2) of this section to the department 20727
of education and to the parents of students enrolled in the 20728
community school; 20729

(4) Provide technical assistance to the community school in 20730
complying with laws applicable to the school and terms of the 20731
contract; 20732

(5) Take steps to intervene in the school's operation to 20733
correct problems in the school's overall performance, declare the 20734
school to be on probationary status pursuant to section 3314.073 20735
of the Revised Code, suspend the operation of the school pursuant 20736
to section 3314.072 of the Revised Code, or terminate the contract 20737
of the school pursuant to section 3314.07 of the Revised Code as 20738
determined necessary by the sponsor; 20739

(6) Have in place a plan of action to be undertaken in the 20740

event the community school experiences financial difficulties or 20741
closes prior to the end of a school year. 20742

(E) Upon the expiration of a contract entered into under this 20743
section, the sponsor of a community school may, with the approval 20744
of the governing authority of the school, renew that contract for 20745
a period of time determined by the sponsor, but not ending earlier 20746
than the end of any school year, if the sponsor finds that the 20747
school's compliance with applicable laws and terms of the contract 20748
and the school's progress in meeting the academic goals prescribed 20749
in the contract have been satisfactory. Any contract that is 20750
renewed under this division remains subject to the provisions of 20751
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 20752

(F) If a community school fails to open for operation within 20753
one year after the contract entered into under this section is 20754
adopted pursuant to division (D) of section 3314.02 of the Revised 20755
Code or permanently closes prior to the expiration of the 20756
contract, the contract shall be void and the school shall not 20757
enter into a contract with any other sponsor. A school shall not 20758
be considered permanently closed because the operations of the 20759
school have been suspended pursuant to section 3314.072 of the 20760
Revised Code. Any contract that becomes void under this division 20761
shall not count toward any statewide limit on the number of such 20762
contracts prescribed by section 3314.013 of the Revised Code. 20763

Sec. 3314.035. Each internet- or computer-based community 20764
school shall provide its students a location within a fifty-mile 20765
radius of the student's residence at which to complete the 20766
statewide achievement tests and diagnostic assessments prescribed 20767
under sections 3301.079 and 3301.0710 of the Revised Code. 20768

Sec. 3314.06. The governing authority of each community 20769
school established under this chapter shall adopt admission 20770

procedures that specify the following: 20771

(A) That except as otherwise provided in this section, 20772
admission to the school shall be open to any individual age five 20773
to twenty-two entitled to attend school pursuant to section 20774
3313.64 or 3313.65 of the Revised Code in a school district in the 20775
state. 20776

(B)(1) That admission to the school may be limited to 20777
students who have attained a specific grade level or are within a 20778
specific age group; to students that meet a definition of 20779
"at-risk," as defined in the contract; ~~or~~ to residents of a 20780
specific geographic area within the district, as defined in the 20781
contract; or to separate groups of autistic students and 20782
nonhandicapped students, as authorized in section 3314.061 of the 20783
Revised Code and as defined in the contract. 20784

(2) For purposes of division (B)(1) of this section, 20785
"at-risk" students may include those students identified as gifted 20786
students under section 3324.03 of the Revised Code. 20787

(C) Whether enrollment is limited to students who reside in 20788
the district in which the school is located or is open to 20789
residents of other districts, as provided in the policy adopted 20790
pursuant to the contract. 20791

(D)(1) That there will be no discrimination in the admission 20792
of students to the school on the basis of race, creed, color, 20793
handicapping condition, or sex except that ~~the~~: 20794

(a) The governing authority may establish single-gender 20795
schools for the purpose described in division (G) of this section 20796
provided comparable facilities and learning opportunities are 20797
offered for both boys and girls. Such comparable facilities and 20798
opportunities may be offered for each sex at separate locations. 20799

(b) The governing authority may establish a school that 20800
simultaneously serves a group of students identified as autistic 20801

and a group of students who are not handicapped, as authorized in 20802
section 3314.061 of the Revised Code. However, unless the total 20803
capacity established for the school has been filled, no student 20804
with any handicap shall be denied admission on the basis of that 20805
handicap. 20806

(2) That upon admission of any handicapped student, the 20807
community school will comply with all federal and state laws 20808
regarding the education of handicapped students. 20809

(E) That the school may not limit admission to students on 20810
the basis of intellectual ability, measures of achievement or 20811
aptitude, or athletic ability, except that a school may limit its 20812
enrollment to students as described in division (B)~~(2)~~ of this 20813
section. 20814

(F) That the community school will admit the number of 20815
students that does not exceed the capacity of the school's 20816
programs, classes, grade levels, or facilities. 20817

(G) That the purpose of single-gender schools that are 20818
established shall be to take advantage of the academic benefits 20819
some students realize from single-gender instruction and 20820
facilities and to offer students and parents residing in the 20821
district the option of a single-gender education. 20822

(H) That, except as otherwise provided under division (B) of 20823
this section or section 3314.061 of the Revised Code, if the 20824
number of applicants exceeds the capacity restrictions of division 20825
(F) of this section, students shall be admitted by lot from all 20826
those submitting applications, except preference shall be given to 20827
students attending the school the previous year and to students 20828
who reside in the district in which the school is located. 20829
Preference may be given to siblings of students attending the 20830
school the previous year. 20831

(I) If the school is an internet- or computer-based community 20832

school, that the school shall not admit on or after the effective 20833
date of this amendment any student, other than a student enrolling 20834
in kindergarten, who was not enrolled in a public school for at 20835
least one semester or an equivalent term during the three 20836
preceding school years. 20837

Notwithstanding divisions (A) to ~~(H)~~(I) of this section, in 20838
the event the racial composition of the enrollment of the 20839
community school is violative of a federal desegregation order, 20840
the community school shall take any and all corrective measures to 20841
comply with the desegregation order. 20842

Sec. 3314.061. A governing authority may establish a 20843
community school under this chapter that is limited to providing 20844
simultaneously special education and related services to a 20845
specified number of students identified as autistic and regular 20846
educational programs to a specified number of students who are not 20847
handicapped. The contract between the governing authority and the 20848
school's sponsor shall specify the target ratio of number of 20849
autistic students to number of nonhandicapped students in the 20850
school's population, the total number of autistic students that 20851
may be enrolled in the school, and the total number of 20852
nonhandicapped students that may be enrolled in the school. A 20853
school established in accordance with this section is subject to 20854
division (H) of section 3314.06 of the Revised Code, except that 20855
because the governing authority establishes a separate capacity 20856
for autistic students and nonhandicapped students, if the number 20857
of applicants among the group of autistic students or the group of 20858
nonhandicapped students exceeds the capacity restrictions for that 20859
group, students shall be admitted by lot from all those of that 20860
same group submitting applications. However, unless the total 20861
capacity established for the school has been filled, no student 20862
with any handicap shall be denied admission on the basis of that 20863

handicap. 20864

Sec. 3314.074. Divisions (A) and (B) of this section apply 20865
only to the extent permitted under Chapter 1702. of the Revised 20866
Code. 20867

(A) If any community school established under this chapter 20868
permanently closes and ceases its operation as a community school, 20869
the assets of that school shall be distributed first to the 20870
retirement funds of employees of the school, employees of the 20871
school, and private creditors who are owed compensation and then 20872
any remaining funds shall be paid to the state treasury to the 20873
credit of the general revenue fund. 20874

(B) If a community school closes and ceases to operate as a 20875
community school and the school has received computer hardware or 20876
software from the former Ohio SchoolNet commission or the agency 20877
designated by the governor to assume the functions of the 20878
commission, such hardware or software shall be returned to the 20879
~~commission~~ agency, and the ~~commission~~ agency shall redistribute 20880
the hardware and software, to the extent such redistribution is 20881
possible, to school districts in conformance with the provisions 20882
of the programs operated and administered by the ~~commission~~ 20883
agency. 20884

(C) If the assets of the school are insufficient to pay all 20885
persons or entities to whom compensation is owed, the 20886
prioritization of the distribution of the assets to individual 20887
persons or entities within each class of payees may be determined 20888
by decree of a court in accordance with this section and Chapter 20889
1702. of the Revised Code. 20890

Sec. 3314.08. (A) As used in this section: 20891

(1) "Base formula amount" means the amount specified as such 20892
in a community school's financial plan for a school year pursuant 20893

- to division (A)(15) of section 3314.03 of the Revised Code. 20894
- (2) "Cost-of-doing-business factor" has the same meaning as 20895
in section 3317.02 of the Revised Code. 20896
- (3) "IEP" means an individualized education program as 20897
defined in section 3323.01 of the Revised Code. 20898
- (4) "Applicable special education weight" means the multiple 20899
specified in section 3317.013 of the Revised Code for a handicap 20900
described in that section. 20901
- (5) "Applicable vocational education weight" means: 20902
- (a) For a student enrolled in vocational education programs 20903
or classes described in division (A) of section 3317.014 of the 20904
Revised Code, the multiple specified in that division; 20905
- (b) For a student enrolled in vocational education programs 20906
or classes described in division (B) of section 3317.014 of the 20907
Revised Code, the multiple specified in that division. 20908
- (6) "Entitled to attend school" means entitled to attend 20909
school in a district under section 3313.64 or 3313.65 of the 20910
Revised Code. 20911
- (7) A community school student is "included in the ~~DPIA~~ 20912
poverty student count" of a school district if the student is 20913
entitled to attend school in the district and+ 20914
- ~~(a) For school years prior to fiscal year 2004, the student's 20915
family receives assistance under the Ohio works first program. 20916~~
- ~~(b) For school years in and after fiscal year 2004, the 20917
student's family income does not exceed the federal poverty 20918
guidelines, as defined in section 5101.46 of the Revised Code, and 20919
the student's family receives family assistance, as defined in 20920
section 3317.029 of the Revised Code. 20921~~
- (8) "~~DPIA~~ Poverty-based assistance reduction factor" means 20922

the percentage figure, if any, for reducing the per pupil amount 20923
of ~~disadvantaged pupil impact aid~~ poverty-based assistance a 20924
community school is entitled to receive pursuant to divisions 20925
(D)(5) and (6) of this section in any year, as specified in the 20926
school's financial plan for the year pursuant to division (A)(15) 20927
of section 3314.03 of the Revised Code. 20928

(9) "All-day kindergarten" has the same meaning as in section 20929
3317.029 of the Revised Code. 20930

(10) "SF-3 payment" means the sum of the payments to a school 20931
district in a fiscal year under divisions (A), (C)(1), (C)(4), 20932
(D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) 20933
of section 3317.024, and sections 3317.029, 3317.0212, ~~3317.0213,~~ 20934
3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of 20935
the Revised Code after making the adjustments required by sections 20936
3313.981 and 3313.979, divisions (B), (C), (D), (E), (K), (L), ~~and~~ 20937
(M), and (N) of section 3317.023, and division (C) of section 20938
3317.20 of the Revised Code. 20939

(B) The state board of education shall adopt rules requiring 20940
both of the following: 20941

(1) The board of education of each city, exempted village, 20942
and local school district to annually report the number of 20943
students entitled to attend school in the district who are 20944
enrolled in grades one through twelve in a community school 20945
established under this chapter, the number of students entitled to 20946
attend school in the district who are enrolled in kindergarten in 20947
a community school, the number of those kindergartners who are 20948
enrolled in all-day kindergarten in their community school, and 20949
for each child, the community school in which the child is 20950
enrolled. 20951

(2) The governing authority of each community school 20952
established under this chapter to annually report all of the 20953

following:	20954
(a) The number of students enrolled in grades one through	20955
twelve and the number of students enrolled in kindergarten in the	20956
school who are not receiving special education and related	20957
services pursuant to an IEP;	20958
(b) The number of enrolled students in grades one through	20959
twelve and the number of enrolled students in kindergarten, who	20960
are receiving special education and related services pursuant to	20961
an IEP;	20962
(c) The number of students reported under division (B)(2)(b)	20963
of this section receiving special education and related services	20964
pursuant to an IEP for a handicap described in each of divisions	20965
(A) to (F) of section 3317.013 of the Revised Code;	20966
(d) The full-time equivalent number of students reported	20967
under divisions (B)(2)(a) and (b) of this section who are enrolled	20968
in vocational education programs or classes described in each of	20969
divisions (A) and (B) of section 3317.014 of the Revised Code that	20970
are provided by the community school;	20971
(e) Twenty per cent of the number of students reported under	20972
divisions (B)(2)(a) and (b) of this section who are not reported	20973
under division (B)(2)(d) of this section but who are enrolled in	20974
vocational education programs or classes described in each of	20975
divisions (A) and (B) of section 3317.014 of the Revised Code at a	20976
joint vocational school district under a contract between the	20977
community school and the joint vocational school district and are	20978
entitled to attend school in a city, local, or exempted village	20979
school district whose territory is part of the territory of the	20980
joint vocational district;	20981
(f) The number of enrolled preschool handicapped students	20982
receiving special education services in a state-funded unit;	20983

(g) The community school's base formula amount; 20984

(h) For each student, the city, exempted village, or local 20985
school district in which the student is entitled to attend school; 20986

(i) Any ~~DPIA~~ poverty-based assistance reduction factor that 20987
applies to a school year. 20988

(C) From the SF-3 payment made to a city, exempted village, 20989
or local school district and, if necessary, from the payment made 20990
to the district under sections 321.24 and 323.156 of the Revised 20991
Code, the department of education shall annually subtract the sum 20992
of the amounts described in divisions (C)(1) to ~~(6)~~(9) of this 20993
section. However, when deducting payments on behalf of students 20994
enrolled in internet- or computer-based community schools, the 20995
department shall deduct only those amounts described in divisions 20996
(C)(1) and (2) of this section. Furthermore, the aggregate amount 20997
deducted under this division shall not exceed the sum of the 20998
district's SF-3 payment and its payment under sections 321.24 and 20999
323.156 of the Revised Code. 21000

(1) An amount equal to the sum of the amounts obtained when, 21001
for each community school where the district's students are 21002
enrolled, the number of the district's students reported under 21003
divisions (B)(2)(a), (b), and (e) of this section who are enrolled 21004
in grades one through twelve, and one-half the number of students 21005
reported under those divisions who are enrolled in kindergarten, 21006
in that community school is multiplied by the following: 21007

(a) In fiscal year 2006, the base formula amount of that 21008
community school as adjusted by the school district's 21009
cost-of-doing-business factor; 21010

(b) In fiscal year 2007 and thereafter, the greater of either 21011
of the following: 21012

(i) The fiscal year 2006 base formula amount of that 21013

<u>community school as adjusted by the school district's fiscal year</u>	21014
<u>2006 cost-of-doing-business factor;</u>	21015
<u>(ii) The sum of the current base formula amount of that</u>	21016
<u>community school plus the per pupil amount of the base funding</u>	21017
<u>supplements specified in divisions (B)(1) to (4) of section</u>	21018
<u>3317.012 of the Revised Code.</u>	21019
(2) The sum of the amounts calculated under divisions	21020
(C)(2)(a) and (b) of this section:	21021
(a) For each of the district's students reported under	21022
division (B)(2)(c) of this section as enrolled in a community	21023
school in grades one through twelve and receiving special	21024
education and related services pursuant to an IEP for a handicap	21025
described in section 3317.013 of the Revised Code, the product of	21026
the applicable special education weight times the community	21027
school's base formula amount;	21028
(b) For each of the district's students reported under	21029
division (B)(2)(c) of this section as enrolled in kindergarten in	21030
a community school and receiving special education and related	21031
services pursuant to an IEP for a handicap described in section	21032
3317.013 of the Revised Code, one-half of the amount calculated as	21033
prescribed in division (C)(2)(a) of this section.	21034
(3) For each of the district's students reported under	21035
division (B)(2)(d) of this section for whom payment is made under	21036
division (D)(4) of this section, the amount of that payment;	21037
(4) An amount equal to the sum of the amounts obtained when,	21038
for each community school where the district's students are	21039
enrolled, the number of the district's students enrolled in that	21040
community school who are included in the district's DPIA <u>poverty</u>	21041
student count is multiplied by the per pupil amount of	21042
disadvantaged pupil impact aid <u>poverty-based assistance</u> the school	21043
district receives that year pursuant to division (B) or (C) of	21044

section 3317.029 of the Revised Code, as adjusted by any ~~DPIA~~ 21045
poverty-based assistance reduction factor of that community 21046
school. If the district receives ~~disadvantaged pupil impact aid~~ 21047
poverty-based assistance under division (B) of that section, the 21048
per pupil amount of that aid is the quotient of the amount the 21049
district received under that division divided by the district's 21050
~~DPIA~~ poverty student count, as defined in that section. If the 21051
district receives ~~disadvantaged pupil impact aid~~ poverty-based 21052
assistance under division (C) of section 3317.029 of the Revised 21053
Code, the per pupil amount of that aid is the per pupil dollar 21054
amount prescribed for the district in ~~division~~ divisions (C)(1) ~~or~~ 21055
and (2) of that section, times a multiple of 0.50 in fiscal year 21056
2007. 21057

(5) An amount equal to the sum of the amounts obtained when, 21058
for each community school where the district's students are 21059
enrolled, the district's per pupil amount of aid received under 21060
division (E) of section 3317.029 of the Revised Code, as adjusted 21061
by any ~~DPIA~~ poverty-based assistance reduction factor of the 21062
community school, is multiplied by the sum of the following: 21063

(a) The number of the district's students reported under 21064
division (B)(2)(a) of this section who are enrolled in grades one 21065
to three in that community school and who are not receiving 21066
special education and related services pursuant to an IEP; 21067

(b) One-half of the district's students who are enrolled in 21068
all-day or any other kindergarten class in that community school 21069
and who are not receiving special education and related services 21070
pursuant to an IEP; 21071

(c) One-half of the district's students who are enrolled in 21072
all-day kindergarten in that community school and who are not 21073
receiving special education and related services pursuant to an 21074
IEP. 21075

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, for each community school where the district's students are enrolled, the district's per pupil amount received under divisions (H) and (I) 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 divisions (H) and (I) of section 3317.029 of the Revised Code is the amount calculated under each division divided by the district's formula ADM, as defined in section 3317.02 of the Revised Code.

(9) An amount equal to the per pupil state parity aid funding calculated for the school district under either division (C) or (D) of section 3317.0217 of the Revised Code multiplied by the sum of the number of students in grades one through twelve, and one-half of the number of students in kindergarten, who are entitled to attend school in the district and are enrolled in a community school as reported under division (B)(1) of this section.

(D) The department shall annually pay to a community school established under this chapter the sum of the amounts described in divisions (D)(1) to ~~(7)~~(10) of this section. However, the department shall calculate and pay to each internet- or computer-based community school only the amounts described in divisions (D)(1) to (3) of this section. Furthermore, the sum of the payments to all community schools under divisions (D)(1), (2), and (4), ~~(5), (6), and (7)~~ to (10) of this section for the students entitled to attend school in any particular school

district shall not exceed the sum of that district's SF-3 payment 21138
and its payment under sections 321.24 and 323.156 of the Revised 21139
Code. If the sum of the payments calculated under those divisions 21140
for the students entitled to attend school in a particular school 21141
district exceeds the sum of that district's SF-3 payment and its 21142
payment under sections 321.24 and 323.156 of the Revised Code, the 21143
department shall calculate and apply a proration factor to the 21144
payments to all community schools under those divisions for the 21145
students entitled to attend school in that district. 21146

(1) An amount equal to the sum of the amounts obtained when 21147
the number of students enrolled in grades one through twelve, plus 21148
one-half of the kindergarten students in the school, reported 21149
under divisions (B)(2)(a), (b), and (e) of this section who are 21150
not receiving special education and related services pursuant to 21151
an IEP for a handicap described in section 3317.013 of the Revised 21152
Code is multiplied by the following: 21153

(a) In fiscal year 2006, the community school's base formula 21154
amount, as adjusted by the cost-of-doing-business factor of the 21155
school district in which the student is entitled to attend school; 21156

(b) In fiscal year 2007 and thereafter, the greater of either 21157
of the following: 21158

(i) The community school's fiscal year 2006 base formula 21159
amount, as adjusted by the fiscal year 2006 cost-of-doing-business 21160
factor of the school district in which the student is entitled to 21161
attend school; 21162

(ii) The sum of the community school's current base formula 21163
amount plus the per pupil amount of the base funding supplements 21164
specified in divisions (B)(1) to (4) of section 3317.012 of the 21165
Revised Code. 21166

(2) The greater of the following: 21167

(a) The aggregate amount that the department paid to the 21168

community school in fiscal year 1999 for students receiving 21169
special education and related services pursuant to IEPs, excluding 21170
federal funds and state disadvantaged pupil impact aid funds; 21171

(b) The sum of the amounts calculated under divisions 21172
(D)(2)(b)(i) and (ii) of this section: 21173

(i) For each student reported under division (B)(2)(c) of 21174
this section as enrolled in the school in grades one through 21175
twelve and receiving special education and related services 21176
pursuant to an IEP for a handicap described in section 3317.013 of 21177
the Revised Code, either of the following amount amounts as 21178
applicable: 21179

(I) In fiscal year 2006, the amount shall be calculated 21180
according to the following formula: 21181

(the community school's base formula amount 21182
X the cost-of-doing-business factor 21183
of the district where the student 21184
is entitled to attend school) + 21185
(the applicable special education weight X 21186
the community school's base formula amount); 21187

(II) In fiscal year 2007 and thereafter, the amount shall be 21188
calculated according to the following formula: 21189

[the greater of (the community school's 21190
fiscal year 2006 base formula amount X 21191
the fiscal year 2006 cost-of-doing-business factor 21192
of the district where the student is entitled to attend school) 21193
or (the current formula amount plus the per pupil amount of the 21194
base funding supplements specified in divisions (B)(1) to (4) 21195
of section 3317.012 of the Revised Code)] + 21196
(the applicable special education weight X 21197
the community school's base formula amount). 21198

(ii) For each student reported under division (B)(2)(c) of 21199

this section as enrolled in kindergarten and receiving special 21200
education and related services pursuant to an IEP for a handicap 21201
described in section 3317.013 of the Revised Code, one-half of the 21202
amount calculated under the formula prescribed in division 21203
(D)(2)(b)(i) of this section. 21204

(3) An amount received from federal funds to provide special 21205
education and related services to students in the community 21206
school, as determined by the superintendent of public instruction. 21207

(4) For each student reported under division (B)(2)(d) of 21208
this section as enrolled in vocational education programs or 21209
classes that are described in section 3317.014 of the Revised 21210
Code, are provided by the community school, and are comparable as 21211
determined by the superintendent of public instruction to school 21212
district vocational education programs and classes eligible for 21213
state weighted funding under section 3317.014 of the Revised Code, 21214
an amount equal to the applicable vocational education weight 21215
times the community school's base formula amount times the 21216
percentage of time the student spends in the vocational education 21217
programs or classes. 21218

(5) An amount equal to the sum of the amounts obtained when, 21219
for each school district where the community school's students are 21220
entitled to attend school, the number of that district's students 21221
enrolled in the community school who are included in the 21222
district's ~~DPIA~~ poverty student count is multiplied by the per 21223
pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based 21224
assistance that school district receives that year pursuant to 21225
division (B) or (C) of section 3317.029 of the Revised Code, as 21226
adjusted by any ~~DPIA~~ poverty-based assistance reduction factor of 21227
the community school. The per pupil amount of aid shall be 21228
determined as described in division (C)(4) of this section. 21229

(6) An amount equal to the sum of the amounts obtained when, 21230

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. 21262

(8) An amount equal to the sum of the amounts obtained when, 21263
for each school district where the community school's students are 21264
entitled to attend school, the district's per pupil amount 21265
received under division (G) of section 3317.029 of the Revised 21266
Code, as adjusted by any poverty-based assistance reduction factor 21267
of the community school, is multiplied by the sum of the 21268
following: 21269

(a) The number of the district's students enrolled in grades 21270
one through twelve in that community school; 21271

(b) One-half of the number of the district's students 21272
enrolled in kindergarten in that community school. 21273

The district's per pupil amount under division (G) of section 21274
3317.029 of the Revised Code shall be determined as described in 21275
division (C)(7) of this section. 21276

(9) An amount equal to the sum of the amounts obtained when, 21277
for each school district where the community school's students are 21278
entitled to attend school, the district's per pupil amount 21279
received under divisions (H) and (I) of section 3317.029 of the 21280
Revised Code, as adjusted by any poverty-based assistance 21281
reduction factor of the community school, is multiplied by the sum 21282
of the following: 21283

(a) The number of the district's students enrolled in grades 21284
one through twelve in that community school; 21285

(b) One-half of the number of the district's students 21286
enrolled in kindergarten in that community school. 21287

The district's per pupil amount under divisions (H) and (I) 21288
of section 3317.029 of the Revised Code shall be determined as 21289
described in division (C)(8) of this section. 21290

(10) An amount equal to the sum of the amounts obtained when, 21291

for each school district where the community school's students are 21292
entitled to attend school, the district's per pupil amount of 21293
state parity aid funding calculated under either division (C) or 21294
(D) of section 3317.0217 of the Revised Code is multiplied by the 21295
sum of the number of that district's students enrolled in grades 21296
one through twelve, and one-half of the number of that district's 21297
students enrolled in kindergarten, in the community school as 21298
reported under division (B)(2)(a) and (b) of this section. 21299

(E)(1) If a community school's costs for a fiscal year for a 21300
student receiving special education and related services pursuant 21301
to an IEP for a handicap described in divisions (B) to (F) of 21302
section 3317.013 of the Revised Code exceed the threshold 21303
catastrophic cost for serving the student as specified in division 21304
(C)(3)(b) of section 3317.022 of the Revised Code, the school may 21305
submit to the superintendent of public instruction documentation, 21306
as prescribed by the superintendent, of all its costs for that 21307
student. Upon submission of documentation for a student of the 21308
type and in the manner prescribed, the department shall pay to the 21309
community school an amount equal to the school's costs for the 21310
student in excess of the threshold catastrophic costs. 21311

(2) The community school shall only report under division 21312
(E)(1) of this section, and the department shall only pay for, the 21313
costs of educational expenses and the related services provided to 21314
the student in accordance with the student's individualized 21315
education program. Any legal fees, court costs, or other costs 21316
associated with any cause of action relating to the student may 21317
not be included in the amount. 21318

(F) A community school may apply to the department of 21319
education for preschool handicapped or gifted unit funding the 21320
school would receive if it were a school district. Upon request of 21321
its governing authority, a community school that received unit 21322
funding as a school district-operated school before it became a 21323

community school shall retain any units awarded to it as a school 21324
district-operated school provided the school continues to meet 21325
eligibility standards for the unit. 21326

A community school shall be considered a school district and 21327
its governing authority shall be considered a board of education 21328
for the purpose of applying to any state or federal agency for 21329
grants that a school district may receive under federal or state 21330
law or any appropriations act of the general assembly. The 21331
governing authority of a community school may apply to any private 21332
entity for additional funds. 21333

(G) A board of education sponsoring a community school may 21334
utilize local funds to make enhancement grants to the school or 21335
may agree, either as part of the contract or separately, to 21336
provide any specific services to the community school at no cost 21337
to the school. 21338

(H) A community school may not levy taxes or issue bonds 21339
secured by tax revenues. 21340

(I) No community school shall charge tuition for the 21341
enrollment of any student. 21342

(J)(1)(a) A community school may borrow money to pay any 21343
necessary and actual expenses of the school in anticipation of the 21344
receipt of any portion of the payments to be received by the 21345
school pursuant to division (D) of this section. The school may 21346
issue notes to evidence such borrowing. The proceeds of the notes 21347
shall be used only for the purposes for which the anticipated 21348
receipts may be lawfully expended by the school. 21349

(b) A school may also borrow money for a term not to exceed 21350
fifteen years for the purpose of acquiring facilities. 21351

(2) Except for any amount guaranteed under section 3318.50 of 21352
the Revised Code, the state is not liable for debt incurred by the 21353

governing authority of a community school. 21354

(K) For purposes of determining the number of students for 21355
which divisions (D)(5) and (6) of this section applies in any 21356
school year, a community school may submit to the department of 21357
job and family services, no later than the first day of March, a 21358
list of the students enrolled in the school. For each student on 21359
the list, the community school shall indicate the student's name, 21360
address, and date of birth and the school district where the 21361
student is entitled to attend school. Upon receipt of a list under 21362
this division, the department of job and family services shall 21363
determine, for each school district where one or more students on 21364
the list is entitled to attend school, the number of students 21365
residing in that school district who were included in the 21366
department's report under section 3317.10 of the Revised Code. The 21367
department shall make this determination on the basis of 21368
information readily available to it. Upon making this 21369
determination and no later than ninety days after submission of 21370
the list by the community school, the department shall report to 21371
the state department of education the number of students on the 21372
list who reside in each school district who were included in the 21373
department's report under section 3317.10 of the Revised Code. In 21374
complying with this division, the department of job and family 21375
services shall not report to the state department of education any 21376
personally identifiable information on any student. 21377

(L) The department of education shall adjust the amounts 21378
subtracted and paid under divisions (C) and (D) of this section to 21379
reflect any enrollment of students in community schools for less 21380
than the equivalent of a full school year. The state board of 21381
education within ninety days after April 8, 2003, shall adopt in 21382
accordance with Chapter 119. of the Revised Code rules governing 21383
the payments to community schools under this section including 21384
initial payments in a school year and adjustments and reductions 21385

made in subsequent periodic payments to community schools and 21386
corresponding deductions from school district accounts as provided 21387
under divisions (C) and (D) of this section. For purposes of this 21388
section: 21389

(1) A student shall be considered enrolled in the community 21390
school for any portion of the school year the student is 21391
participating at a college under Chapter 3365. of the Revised 21392
Code. 21393

(2) A student shall be considered to be enrolled in a 21394
community school during a school year for the period of time 21395
between the date on which the school both has received 21396
documentation of the student's enrollment from a parent and has 21397
commenced participation in learning opportunities as defined in 21398
the contract with the sponsor. For purposes of applying this 21399
division to a community school student, "learning opportunities" 21400
shall be defined in the contract, which shall describe both 21401
classroom-based and non-classroom-based learning opportunities and 21402
shall be in compliance with criteria and documentation 21403
requirements for student participation which shall be established 21404
by the department. Any student's instruction time in 21405
non-classroom-based learning opportunities shall be certified by 21406
an employee of the community school. A student's enrollment shall 21407
be considered to cease on the date on which any of the following 21408
occur: 21409

(a) The community school receives documentation from a parent 21410
terminating enrollment of the student. 21411

(b) The community school is provided documentation of a 21412
student's enrollment in another public or private school. 21413

(c) The community school ceases to offer learning 21414
opportunities to the student pursuant to the terms of the contract 21415
with the sponsor or the operation of any provision of this 21416

chapter. 21417

(3) A student's percentage of full-time equivalency shall be 21418
considered to be the percentage the hours of learning opportunity 21419
offered to that student is of nine hundred and twenty hours. 21420

(M) The department of education shall reduce the amounts paid 21421
under division (D) of this section to reflect payments made to 21422
colleges under division (B) of section 3365.07 of the Revised 21423
Code. 21424

(N)(1) No student shall be considered enrolled in any 21425
internet- or computer-based community school unless both of the 21426
following conditions are satisfied: 21427

(a) The student possesses or has been provided with all 21428
required hardware and software materials and all such materials 21429
are operational so that the student is capable of fully 21430
participating in the learning opportunities specified in the 21431
contract between the school and the school's sponsor as required 21432
by division (A)(23) of section 3314.03 of the Revised Code; 21433

(b) The school is in compliance with division (A)(1) or (2) 21434
of section 3314.032 of the Revised Code, relative to such student. 21435

(2) In accordance with policies adopted jointly by the 21436
superintendent of public instruction and the auditor of state, the 21437
department shall reduce the amounts otherwise payable under 21438
division (D) of this section to any internet- or computer-based 21439
community school that includes in its program the provision of 21440
computer hardware and software materials to each student, if such 21441
hardware and software materials have not been delivered, 21442
installed, and activated for all students in a timely manner or 21443
other educational materials or services have not been provided 21444
according to the contract between the individual community school 21445
and its sponsor. 21446

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. 21447
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The superintendent, auditor of state, and the governor shall jointly make recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such internet- or computer-based schools. 21451
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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: 21456
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(a) The department and the community school mutually agree to the extension. 21463
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(b) Delays in data submission caused by either a community school or its sponsor. 21465
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(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: 21467
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(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. 21472
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(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an 21475
21476

appeal and shall issue a decision within fifteen days of the
conclusion of the hearing. 21477
21478

(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. 21479
21480
21481
21482

(d) Any decision made by the board under this division is
final. 21483
21484

(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. 21485
21486
21487
21488

Sec. 3314.13. (A) As used in this section: 21489

(1) "All-day kindergarten" has the same meaning as in section
3317.029 of the Revised Code. 21490
21491

(2) "Formula amount" has the same meaning as in section
3317.02 of the Revised Code. 21492
21493

(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: 21494
21495
21496
21497

(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; 21498
21499
21500
21501

(2) The student is reported by the community school as
enrolled in all-day kindergarten at the community school. 21502
21503

(C) The department shall make no payments under this section
to any internet- or computer-based community school. 21504
21505

(D) If a student for whom payment is made under division (B) 21506
of this section is entitled to attend school in a district that 21507
receives any payment for all-day kindergarten under division (D) 21508
of section 3317.029 of the Revised Code, the department shall 21509
deduct the payment to the community school under this section from 21510
the amount paid that school district under that division. If that 21511
school district does not receive payment for all-day kindergarten 21512
under that division because it does not provide all-day 21513
kindergarten, the department shall pay the community school from 21514
state funds appropriated generally for ~~disadvantaged pupil impact~~ 21515
~~aid~~ poverty-based assistance to school districts. 21516

~~(D)~~(E) The department shall adjust the amounts deducted from 21517
school districts and paid to community schools under this section 21518
to reflect any enrollments of students in all-day kindergarten in 21519
community schools for less than the equivalent of a full school 21520
year. 21521

Sec. 3314.29. (A) The department of education shall 21522
establish, maintain, and administer a self-insurance surety 21523
program for community schools established under this chapter for 21524
the purpose of paying surety claims. The program shall be owned 21525
proportionally by contributing schools. The following apply to the 21526
program: 21527

(1) Such funds shall be reserved as are necessary, in the 21528
exercise of sound and prudent actuarial judgment, to cover all 21529
surety claims not to exceed one million dollars per occurrence or 21530
three million dollars aggregate. The surety limit applicable to 21531
all participating schools shall be twenty-five million dollars. 21532

(2) The department shall establish, by rules adopted in 21533
accordance with Chapter 119. of the Revised Code, a fair, 21534
self-adjusting mechanism by which to determine the amount each 21535
participating school is required to contribute to the program. The 21536

determination shall be made on the basis of relative exposure and 21537
loss experience and shall take into account the size of the 21538
school's enrollment and its academic and financial performance. 21539

(3) The department shall obtain a surety bond from a bonding 21540
company or insurance company authorized to do business in this 21541
state to pay claims in excess of one million dollars per 21542
occurrence or three million dollars aggregate. 21543

(4) The aggregate fees paid to brokers in any year under the 21544
program shall not exceed three hundred thousand dollars. 21545

(B) All contributions received from participating schools 21546
pursuant to division (A)(2) of this section shall be deposited 21547
into the community school surety fund, which is hereby created. 21548
The fund shall be in the custody of the treasurer of state but not 21549
part of the state treasury. Money credited to the fund shall be 21550
used for the administration of the program, including the payment 21551
of claims, broker fees, and other actual and necessary expenses 21552
incurred by the department in carrying out the purposes of this 21553
section. 21554

The treasurer of state shall disburse money from the fund on 21555
order of the superintendent of public instruction, or the 21556
superintendent's designee. All investment earnings of the fund 21557
shall be credited to the fund. 21558

Sec. 3315.17. (A) The board of education of each city, 21559
exempted village, local, and joint vocational school district 21560
shall establish a textbook and instructional materials fund. Each 21561
board annually shall deposit into that fund an amount derived from 21562
revenues received by the district for operating expenses that is 21563
equal to three per cent of the formula amount for the preceding 21564
fiscal year, as defined in section 3317.02 of the Revised Code, or 21565
another percentage if established by the auditor of state under 21566

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 21598
following occur during that fiscal year: 21599

(1) All of the following certify to the district board in 21600
writing that the district has sufficient textbooks, instructional 21601
software, and instructional materials, supplies, and equipment to 21602
ensure a thorough and efficient education within the district: 21603

(a) The district superintendent; 21604

(b) In districts required to have a business advisory 21605
council, a person designated by vote of the business advisory 21606
council; 21607

(c) If the district teachers are represented by an exclusive 21608
bargaining representative for purposes of Chapter 4117. of the 21609
Revised Code, the president of that organization or the 21610
president's designee. 21611

(2) The district board adopts, by unanimous vote of all 21612
members of the board, a resolution stating that the district has 21613
sufficient textbooks, instructional software, and instructional 21614
materials, supplies, and equipment to ensure a thorough and 21615
efficient education within the district. 21616

(E) Notwithstanding any provision to the contrary in Chapter 21617
4117. of the Revised Code, the requirements of this section 21618
prevail over any conflicting provisions of agreements between 21619
employee organizations and public employers entered into on or 21620
after November 21, 1997. 21621

(F) As used in this section and in section 3315.18 of the 21622
Revised Code, "student population" means the average, daily, 21623
full-time-equivalent number of students in kindergarten through 21624
twelfth grade receiving any educational services from the school 21625
district during the first full school week in October, excluding 21626
students enrolled in adult education classes, but including all of 21627

the following: 21628

(1) Adjacent or other district students enrolled in the 21629
district under an open enrollment policy pursuant to section 21630
3313.98 of the Revised Code; 21631

(2) Students receiving services in the district pursuant to a 21632
compact, cooperative education agreement, or a contract, but who 21633
are entitled to attend school in another district pursuant to 21634
section 3313.64 or 3313.65 of the Revised Code; 21635

(3) Students for whom tuition is payable pursuant to sections 21636
3317.081 and 3323.141 of the Revised Code. 21637

The department of education shall determine a district's 21638
student population using data reported to it under section 3317.03 21639
of the Revised Code for the applicable fiscal year. 21640

Sec. 3315.18. (A) The board of education of each city, 21641
exempted village, local, and joint vocational school district 21642
shall establish a capital and maintenance fund. Each board 21643
annually shall deposit into that fund an amount derived from 21644
revenues received by the district that would otherwise have been 21645
deposited in the general fund that is equal to three per cent of 21646
the formula amount for the preceding fiscal year, as defined in 21647
section 3317.02 of the Revised Code, or another percentage if 21648
established by the auditor of state under division (B) of this 21649
section, multiplied by the district's student population for the 21650
preceding fiscal year, except that money received from a permanent 21651
improvement levy authorized by section 5705.21 of the Revised Code 21652
may replace general revenue moneys in meeting the requirements of 21653
this section. Money in the fund shall be used solely for 21654
acquisition, replacement, enhancement, maintenance, or repair of 21655
permanent improvements, as that term is defined in section 5705.01 21656
of the Revised Code. Any money in the fund that is not used in any 21657

fiscal year shall carry forward to the next fiscal year. 21658

(B) The state superintendent of public instruction and the 21659
auditor of state jointly shall adopt rules in accordance with 21660
Chapter 119. of the Revised Code defining what constitutes 21661
expenditures permitted by division (A) of this section. The 21662
auditor of state may designate a percentage, other than three per 21663
cent, of the formula amount multiplied by the district's student 21664
population that must be deposited into the fund. 21665

(C) Within its capital and maintenance fund, a school 21666
district board of education may establish a separate account 21667
solely for the purpose of depositing funds transferred from the 21668
district's reserve balance account established under former 21669
division (H) of section 5705.29 of the Revised Code. After ~~the~~ 21670
~~effective date of this amendment~~ April 10, 2001, a board may 21671
deposit all or part of the funds formerly included in such reserve 21672
balance account in the separate account established under this 21673
section. Funds deposited in this separate account and interest on 21674
such funds shall be utilized solely for the purpose of providing 21675
the district's portion of the basic project costs of any project 21676
undertaken in accordance with Chapter 3318. of the Revised Code. 21677

(D) Notwithstanding division (A) of this section, in any year 21678
a district is in fiscal emergency status as declared pursuant to 21679
section 3316.03 of the Revised Code, the district may deposit an 21680
amount less than required by division (A) of this section, or make 21681
no deposit, into the district capital and maintenance fund for 21682
that year. 21683

(E) Notwithstanding any provision to the contrary in Chapter 21684
4117. of the Revised Code, the requirements of this section 21685
prevail over any conflicting provisions of agreements between 21686
employee organizations and public employers entered into after 21687
November 21, 1997. 21688

Sec. 3315.37. The board of education of a school district may 21689
establish a teacher education loan program and may expend school 21690
funds for the program. The program shall be for the purpose of 21691
making loans to students who are residents of the school district 21692
or graduates of schools in the school district, who are enrolled 21693
in teacher preparation programs at institutions approved by the 21694
state board pursuant to section 3319.23 of the Revised Code, and 21695
who indicate an intent to teach in the school district providing 21696
the loan. The district board may forgive the obligation to repay 21697
any or all of the principal and interest on the loan if the 21698
borrower teaches in that school district. 21699

The district board shall adopt rules establishing eligibility 21700
criteria, application procedures, procedures for review of 21701
applications, loan amounts, interest, repayment schedules, 21702
conditions under which principal and interest obligations incurred 21703
under the program will be forgiven, and any other matter 21704
incidental to the operation of the program. 21705

The board may contract with a private, nonprofit foundation, 21706
one or more institutions of higher education, or other educational 21707
agencies to administer the program. 21708

The receipt of a loan under this section does not affect a 21709
student's eligibility for assistance, or the amount of such 21710
assistance, granted under section 3315.33, 3333.12, 3333.122, 21711
3333.22, 3333.26, 3333.27, 5910.04, or 5919.34 of the Revised 21712
Code, but the board's rules may provide for taking such assistance 21713
into consideration when determining a student's eligibility for a 21714
loan under this section. 21715

Sec. 3316.043. Upon the approval by the superintendent of 21716
public instruction of an initial financial plan under section 21717
3316.04 of the Revised Code or a financial recovery plan under 21718

section 3316.06 of the Revised Code, the board of education of the 21719
school district for which the plan was approved shall revise the 21720
district's five-year projection of revenues and expenditures in 21721
accordance with rules adopted under section 5705.391 of the 21722
Revised Code so that the five-year projection is consistent with 21723
the financial plan or financial recovery plan. In the case of a 21724
school district declared to be in a state of fiscal emergency, the 21725
five-year projection shall be revised by the financial planning 21726
and supervision commission for that district. 21727

Sec. 3316.06. (A) Within one hundred twenty days after the 21728
first meeting of a school district financial planning and 21729
supervision commission, the commission shall adopt a financial 21730
recovery plan regarding the school district for which the 21731
commission was created. During the formulation of the plan, the 21732
commission shall seek appropriate input from the school district 21733
board and from the community. This plan shall contain the 21734
following: 21735

(1) Actions to be taken to: 21736

(a) Eliminate all fiscal emergency conditions declared to 21737
exist pursuant to division (B) of section 3316.03 of the Revised 21738
Code; 21739

(b) Satisfy any judgments, past-due accounts payable, and all 21740
past-due and payable payroll and fringe benefits; 21741

(c) Eliminate the deficits in all deficit funds, except that 21742
any prior year deficits in the textbook and instructional 21743
materials fund established pursuant to section 3315.17 of the 21744
Revised Code and the capital and maintenance fund established 21745
pursuant to section 3315.18 of the Revised Code shall be forgiven; 21746

(d) Restore to special funds any moneys from such funds that 21747
were used for purposes not within the purposes of such funds, or 21748

borrowed from such funds by the purchase of debt obligations of 21749
the school district with the moneys of such funds, or missing from 21750
the special funds and not accounted for, if any; 21751

(e) Balance the budget, avoid future deficits in any funds, 21752
and maintain on a current basis payments of payroll, fringe 21753
benefits, and all accounts; 21754

(f) Avoid any fiscal emergency condition in the future; 21755

(g) Restore the ability of the school district to market 21756
long-term general obligation bonds under provisions of law 21757
applicable to school districts generally. 21758

(2) The management structure that will enable the school 21759
district to take the actions enumerated in division (A)(1) of this 21760
section. The plan shall specify the level of fiscal and management 21761
control that the commission will exercise within the school 21762
district during the period of fiscal emergency, and shall 21763
enumerate respectively, the powers and duties of the commission 21764
and the powers and duties of the school board during that period. 21765
The commission may elect to assume any of the powers and duties of 21766
the school board it considers necessary, including all powers 21767
related to personnel, curriculum, and legal issues in order to 21768
successfully implement the actions described in division (A)(1) of 21769
this section. 21770

(3) The target dates for the commencement, progress upon, and 21771
completion of the actions enumerated in division (A)(1) of this 21772
section and a reasonable period of time expected to be required to 21773
implement the plan. The commission shall prepare a reasonable time 21774
schedule for progress toward and achievement of the requirements 21775
for the plan, and the plan shall be consistent with that time 21776
schedule. 21777

(4) The amount and purpose of any issue of debt obligations 21778
that will be issued, together with assurances that any such debt 21779

obligations that will be issued will not exceed debt limits 21780
supported by appropriate certifications by the fiscal officer of 21781
the school district and the county auditor. Debt obligations 21782
issued pursuant to section 133.301 of the Revised Code shall 21783
include assurances that such debt shall be in an amount not to 21784
exceed the amount certified under division (B) of such section. If 21785
the commission considers it necessary in order to maintain or 21786
improve educational opportunities of pupils in the school 21787
district, the plan may include a proposal to restructure or 21788
refinance outstanding debt obligations incurred by the board under 21789
section 3313.483 of the Revised Code contingent upon the approval, 21790
during the period of the fiscal emergency, by district voters of a 21791
tax levied under section 718.09, 718.10, 5705.194, 5705.21, 21792
5748.02, or 5748.08 of the Revised Code, that is not a renewal or 21793
replacement levy and that will provide new operating revenue. 21794
Notwithstanding any provision of Chapter 133. or sections 3313.483 21795
to 3313.4811 of the Revised Code, following the required approval 21796
of the district voters and with the approval of the commission, 21797
the school district may issue securities to evidence the 21798
restructuring or refinancing. Those securities may extend the 21799
original period for repayment, not to exceed ten years, and may 21800
alter the frequency and amount of repayments, interest or other 21801
financing charges, and other terms of agreements under which the 21802
debt originally was contracted, at the discretion of the 21803
commission, provided that any loans received pursuant to section 21804
3313.483 of the Revised Code shall be paid from funds the district 21805
would otherwise receive under sections 3317.022 to 3317.025 of the 21806
Revised Code, as required under division (E)(3) of section 21807
3313.483 of the Revised Code. The securities issued for the 21808
purpose of restructuring or refinancing the debt shall be repaid 21809
in equal payments and at equal intervals over the term of the debt 21810
and are not eligible to be included in any subsequent proposal for 21811
the purpose of restructuring or refinancing debt under this 21812

section. 21813

(B) Any financial recovery plan may be amended subsequent to 21814
its adoption. Each financial recovery plan shall be updated 21815
annually. 21816

(C) Each school district financial planning and supervision 21817
commission shall submit the financial recovery plan it adopts or 21818
updates under this section to the state superintendent of public 21819
instruction for approval immediately following its adoption or 21820
updating. The state superintendent shall evaluate the plan and 21821
either approve or disapprove it within thirty calendar days from 21822
the date of its submission. If the plan is disapproved, the state 21823
superintendent shall recommend modifications that will render it 21824
acceptable. No financial planning and supervision commission shall 21825
implement a financial recovery plan that is adopted or updated on 21826
or after ~~the effective date of this amendment~~ April 10, 2001, 21827
unless the state superintendent has approved it. 21828

Sec. 3316.16. (A) A school district financial planning and 21829
supervision commission, with respect to its functions under this 21830
chapter, shall continue in existence until such time as a 21831
determination is made under division (B) of this section that all 21832
of the following have occurred: 21833

(1) An effective financial accounting and reporting system in 21834
accordance with section 3316.10 of the Revised Code is in the 21835
process of being implemented, and it is reasonably expected that 21836
this implementation will be completed within two years. 21837

(2) All of the fiscal emergency conditions determined 21838
pursuant to division (B) of section 3316.03 of the Revised Code 21839
have been corrected or eliminated, and no new fiscal emergency 21840
conditions have occurred. 21841

(3) The objectives of the financial recovery plan described 21842

in section 3316.06 of the Revised Code are being met. 21843

(4) The school district board has prepared a financial 21844
forecast for a five-year period in accordance with the standards 21845
issued by the auditor of state and an opinion has been rendered by 21846
the auditor of state that the financial forecast is considered to 21847
be nonadverse. The forecast shall display the district's projected 21848
compliance with sections 3315.17 and 3315.18 of the Revised Code 21849
beginning in the year the commission is proposed for termination. 21850

(B) The determination that all conditions listed in division 21851
(A) of this section for the termination of the existence of the 21852
commission and its functions exist may be made either by the 21853
auditor of state or by the commission and shall be certified to 21854
the commission, the auditor of state, the governor, the director 21855
of budget and management, and the budget commission, whereupon 21856
such commission and its functions under this chapter shall 21857
terminate. This determination shall be made by the auditor of 21858
state upon the filing with the auditor of state of a written 21859
request for such a determination by the school district board, the 21860
governor, or the commission, or may be made by the auditor of 21861
state upon the auditor of state's own initiative. 21862

(C) The commission shall prepare and submit at the time of 21863
such certification a final report of its activities, in such form 21864
as is appropriate for the purpose of providing a record of its 21865
activities and assisting other commissions created under this 21866
chapter in the conduct of their functions. All of the books and 21867
records of the commission shall be delivered to the auditor of 21868
state for retention and safekeeping. 21869

(D) Upon receipt of the certification provided for in 21870
division (B) of this section, the director of budget and 21871
management shall follow the procedures set forth in section 126.29 21872
of the Revised Code. 21873

(E) If, at the time of termination of the commission, an 21874
effective financial accounting and reporting system has not been 21875
fully implemented, the auditor of state shall monitor the progress 21876
of implementation and shall exercise authority under this section 21877
and Chapter 117. of the Revised Code to secure full implementation 21878
at the earliest time feasible but within two years after such 21879
termination. 21880

Sec. 3317.01. As used in this section and section 3317.011 of 21881
the Revised Code, "school district," unless otherwise specified, 21882
means any city, local, exempted village, joint vocational, or 21883
cooperative education school district and any educational service 21884
center. 21885

This chapter shall be administered by the state board of 21886
education. The superintendent of public instruction shall 21887
calculate the amounts payable to each school district and shall 21888
certify the amounts payable to each eligible district to the 21889
treasurer of the district as provided by this chapter. No moneys 21890
shall be distributed pursuant to this chapter without the approval 21891
of the controlling board. 21892

The state board of education shall, in accordance with 21893
appropriations made by the general assembly, meet the financial 21894
obligations of this chapter. 21895

Annually, the department of education shall calculate and 21896
report to each school district the district's total state and 21897
local funds for providing an adequate basic education to the 21898
district's nonhandicapped students, utilizing the determination in 21899
section 3317.012 of the Revised Code. In addition, the department 21900
shall calculate and report separately for each school district the 21901
district's total state and local funds for providing an adequate 21902
education for its handicapped students, utilizing the 21903
determinations in both sections 3317.012 and 3317.013 of the 21904

Revised Code. 21905

Not later than the thirty-first day of August of each fiscal 21906
year, the department of education shall provide to each school 21907
district and county MR/DD board a preliminary estimate of the 21908
amount of funding that the department calculates the district will 21909
receive under each of divisions (C)(1) and (4) of section 3317.022 21910
of the Revised Code. No later than the first day of December of 21911
each fiscal year, the department shall update that preliminary 21912
estimate. 21913

Moneys distributed pursuant to this chapter shall be 21914
calculated and paid on a fiscal year basis, beginning with the 21915
first day of July and extending through the thirtieth day of June. 21916
The moneys appropriated for each fiscal year shall be distributed 21917
at least monthly to each school district unless otherwise provided 21918
for. The state board shall submit a yearly distribution plan to 21919
the controlling board at its first meeting in July. The state 21920
board shall submit any proposed midyear revision of the plan to 21921
the controlling board in January. Any year-end revision of the 21922
plan shall be submitted to the controlling board in June. If 21923
moneys appropriated for each fiscal year are distributed other 21924
than monthly, such distribution shall be on the same basis for 21925
each school district. 21926

The total amounts paid each month shall constitute, as nearly 21927
as possible, one-twelfth of the total amount payable for the 21928
entire year. ~~Payments~~ 21929

Until fiscal year 2007, payments made during the first six 21930
months of the fiscal year may be based on an estimate of the 21931
amounts payable for the entire year. Payments made in the last six 21932
months shall be based on the final calculation of the amounts 21933
payable to each school district for that fiscal year. Payments 21934
made in the last six months may be adjusted, if necessary, to 21935

correct the amounts distributed in the first six months, and to 21936
reflect enrollment increases when such are at least three per 21937
cent. ~~Except~~ 21938

Beginning in fiscal year 2007, payments shall be calculated 21939
to reflect the biannual reporting of formula ADM. Payments for 21940
July through December shall be based on the formula ADM, special 21941
education ADM, and vocational education ADM certified in the 21942
spring of the previous fiscal year, and payments for January 21943
through June shall be based on formula ADM, special education ADM, 21944
and vocational education ADM certified in October of the current 21945
fiscal year. 21946

Except as otherwise provided, payments under this chapter 21947
shall be made only to those school districts in which: 21948

(A) The school district, except for any educational service 21949
center and any joint vocational or cooperative education school 21950
district, levies for current operating expenses at least twenty 21951
mills. Levies for joint vocational or cooperative education school 21952
districts or county school financing districts, limited to or to 21953
the extent apportioned to current expenses, shall be included in 21954
this qualification requirement. School district income tax levies 21955
under Chapter 5748. of the Revised Code, limited to or to the 21956
extent apportioned to current operating expenses, shall be 21957
included in this qualification requirement to the extent 21958
determined by the tax commissioner under division (D) of section 21959
3317.021 of the Revised Code. 21960

(B) The school year next preceding the fiscal year for which 21961
such payments are authorized meets the requirement of section 21962
3313.48 or 3313.481 of the Revised Code, with regard to the 21963
minimum number of days or hours school must be open for 21964
instruction with pupils in attendance, for individualized 21965
parent-teacher conference and reporting periods, and for 21966
professional meetings of teachers. This requirement shall be 21967

waived by the superintendent of public instruction if it had been 21968
necessary for a school to be closed because of disease epidemic, 21969
hazardous weather conditions, inoperability of school buses or 21970
other equipment necessary to the school's operation, damage to a 21971
school building, or other temporary circumstances due to utility 21972
failure rendering the school building unfit for school use, 21973
provided that for those school districts operating pursuant to 21974
section 3313.48 of the Revised Code the number of days the school 21975
was actually open for instruction with pupils in attendance and 21976
for individualized parent-teacher conference and reporting periods 21977
is not less than one hundred seventy-five, or for those school 21978
districts operating on a trimester plan the number of days the 21979
school was actually open for instruction with pupils in attendance 21980
not less than seventy-nine days in any trimester, for those school 21981
districts operating on a quarterly plan the number of days the 21982
school was actually open for instruction with pupils in attendance 21983
not less than fifty-nine days in any quarter, or for those school 21984
districts operating on a pentamester plan the number of days the 21985
school was actually open for instruction with pupils in attendance 21986
not less than forty-four days in any pentamester. 21987

A school district shall not be considered to have failed to 21988
comply with this division or section 3313.481 of the Revised Code 21989
because schools were open for instruction but either twelfth grade 21990
students were excused from attendance for up to three days or only 21991
a portion of the kindergarten students were in attendance for up 21992
to three days in order to allow for the gradual orientation to 21993
school of such students. 21994

The superintendent of public instruction shall waive the 21995
requirements of this section with reference to the minimum number 21996
of days or hours school must be in session with pupils in 21997
attendance for the school year succeeding the school year in which 21998
a board of education initiates a plan of operation pursuant to 21999

section 3313.481 of the Revised Code. The minimum requirements of 22000
this section shall again be applicable to such a district 22001
beginning with the school year commencing the second July 22002
succeeding the initiation of one such plan, and for each school 22003
year thereafter. 22004

A school district shall not be considered to have failed to 22005
comply with this division or section 3313.48 or 3313.481 of the 22006
Revised Code because schools were open for instruction but the 22007
length of the regularly scheduled school day, for any number of 22008
days during the school year, was reduced by not more than two 22009
hours due to hazardous weather conditions. 22010

(C) The school district has on file, and is paying in 22011
accordance with, a teachers' salary schedule which complies with 22012
section 3317.13 of the Revised Code. 22013

A board of education or governing board of an educational 22014
service center which has not conformed with other law and the 22015
rules pursuant thereto, shall not participate in the distribution 22016
of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 22017
3317.16, 3317.17, and 3317.19 of the Revised Code, except for good 22018
and sufficient reason established to the satisfaction of the state 22019
board of education and the state controlling board. 22020

All funds allocated to school districts under this chapter, 22021
except those specifically allocated for other purposes, shall be 22022
used to pay current operating expenses only. 22023

Sec. 3317.012. (A)(1) The general assembly, having analyzed 22024
school district expenditure and cost data for fiscal year 1999, 22025
performed the calculation described in division ~~(B)~~(C) of this 22026
section, adjusted the results for inflation, and added the amounts 22027
described in division (A)(2) of this section, hereby determines 22028
that the base cost of an adequate education per pupil for the 22029

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>	22062
<u>Where "multiple" equals 0.50 in fiscal year 2007.</u>	22063
<u>(2) Base funding for professional development, calculated according to the following formula:</u>	22064
<u>(formula ADM / 20) X (0.044484 X formula amount) X multiple</u>	22065
<u>Where "multiple" equals 0.50 in fiscal year 2007.</u>	22066
<u>(3) Base funding for data-based decision making, calculated according to the following formula:</u>	22068
<u>0.001087 X formula amount X formula ADM</u>	22069
<u>(4) Base funding for professional development regarding data-based decision making, calculated according to the following formula:</u>	22070
<u>(0.20 X the district's teacher factor X 0.079082 X formula amount) + (the district's principal factor X 0.079082 X formula amount)</u>	22071
<u>Where:</u>	22072
<u>(a) For each urban school district, as defined in section 3314.02 of the Revised Code, the district's "teacher factor" is the district's formula ADM divided by twelve;</u>	22073
<u>(b) For every other school district, the district's "teacher factor" is the district's formula ADM divided by seventeen;</u>	22074
<u>(c) For all school districts, a district's "principal factor" is the district's teacher factor divided by twenty.</u>	22075
<u>(C) In determining the base cost stated in division (A) of this section, capital and debt costs, costs paid for by federal funds, and costs covered by funds provided for disadvantaged pupil impact aid and transportation were excluded, as were the effects on the districts' state funds of the application of the cost-of-doing-business factors, assuming a seven and one-half per cent variance.</u>	22076
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The base cost for fiscal year 1999 was calculated as the unweighted average cost per student, on a school district basis, of educating students who were not receiving vocational education or services pursuant to Chapter 3323. of the Revised Code and who were enrolled in a city, exempted village, or local school district that in fiscal year 1999 met all of the following criteria:

(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;	22122
(i) At least seventy-five per cent of sixth graders proficient on the writing test prescribed under former division	22123 22124
(A)(2) of section 3301.0710 of the Revised Code;	22125
(j) At least seventy-five per cent of sixth graders proficient on the citizenship test prescribed under former division (A)(2) of section 3301.0710 of the Revised Code;	22126 22127 22128
(k) At least seventy-five per cent of sixth graders proficient on the science test prescribed under former division	22129 22130
(A)(2) of section 3301.0710 of the Revised Code;	22131
(l) At least seventy-five per cent of ninth graders proficient on the mathematics test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;	22132 22133 22134
(m) At least seventy-five per cent of ninth graders proficient on the reading test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;	22135 22136 22137
(n) At least seventy-five per cent of ninth graders proficient on the writing test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;	22138 22139 22140
(o) At least seventy-five per cent of ninth graders proficient on the citizenship test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;	22141 22142 22143
(p) At least seventy-five per cent of ninth graders proficient on the science test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;	22144 22145 22146
(q) At least eighty-five per cent of tenth graders proficient on the mathematics test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;	22147 22148 22149
(r) At least eighty-five per cent of tenth graders proficient on the reading test prescribed under Section 4 of Am. Sub. S.B. 55	22150 22151

of the 122nd general assembly;	22152
(s) At least eighty-five per cent of tenth graders proficient	22153
on the writing test prescribed under Section 4 of Am. Sub. S.B. 55	22154
of the 122nd general assembly;	22155
(t) At least eighty-five per cent of tenth graders proficient	22156
on the citizenship test prescribed under Section 4 of Am. Sub.	22157
S.B. 55 of the 122nd general assembly;	22158
(u) At least eighty-five per cent of tenth graders proficient	22159
on the science test prescribed under Section 4 of Am. Sub. S.B. 55	22160
of the 122nd general assembly;	22161
(v) At least sixty per cent of twelfth graders proficient on	22162
the mathematics test prescribed under former division (A)(3) of	22163
section 3301.0710 of the Revised Code;	22164
(w) At least sixty per cent of twelfth graders proficient on	22165
the reading test prescribed under former division (A)(3) of	22166
section 3301.0710 of the Revised Code;	22167
(x) At least sixty per cent of twelfth graders proficient on	22168
the writing test prescribed under former division (A)(3) of	22169
section 3301.0710 of the Revised Code;	22170
(y) At least sixty per cent of twelfth graders proficient on	22171
the citizenship test prescribed under former division (A)(3) of	22172
section 3301.0710 of the Revised Code;	22173
(z) At least sixty per cent of twelfth graders proficient on	22174
the science test prescribed under former division (A)(3) of	22175
section 3301.0710 of the Revised Code;	22176
(aa) An attendance rate for the year of at least ninety-three	22177
per cent.	22178
In determining whether a school district met any of the	22179
performance standards specified in divisions (B) (C)(1)(a) to (aa)	22180
of this section, the general assembly used a rounding procedure	22181

previously recommended by the department of education. It is the 22182
same rounding procedure the general assembly used in 1998 to 22183
determine whether a district had met the standards of former 22184
divisions ~~(B)~~(C)(1)(a) to (r) of this section for purposes of 22185
constructing the previous model based on fiscal year 1996 data. 22186

(2) The district was not among the five per cent of all 22187
districts with the highest income, nor among the five per cent of 22188
all districts with the lowest income. 22189

(3) The district was not among the five per cent of all 22190
districts with the highest valuation per pupil, nor among the five 22191
per cent of all districts with the lowest valuation per pupil. 22192

This model for calculating the base cost of an adequate 22193
education is expenditure-based. The general assembly recognizes 22194
that increases in state funding to school districts since fiscal 22195
year 1996, the fiscal year upon which the general assembly based 22196
its model for calculating state funding to school districts for 22197
fiscal years 1999 through 2001, has increased school district base 22198
cost expenditures for fiscal year 1999, the fiscal year upon which 22199
the general assembly based its model for calculating state funding 22200
for fiscal years 2002 through 2005. In the case of school 22201
districts included in the fiscal year 1999 model that also had met 22202
the fiscal year 1996 performance criteria of former division 22203
~~(B)~~(C)(1) of this section, the increased state funding may have 22204
driven the districts' expenditures beyond the expenditures that 22205
were actually needed to maintain their educational programs at the 22206
level necessary to maintain their ability to meet the fiscal year 22207
1999 performance criteria of current division ~~(B)~~(C)(1) of this 22208
section. The general assembly has determined to control for this 22209
effect by stipulating in the later model that the fiscal year 1999 22210
base cost expenditures of the districts that also met the 22211
performance criteria of former division ~~(B)~~(C)(1) of this section 22212
equals their base cost expenditures per pupil for fiscal year 22213

1996, inflated to fiscal year 1999 using an annual rate of 22214
inflation of two and eight-tenths per cent. However, if this 22215
inflated amount exceeded the district's actual fiscal year 1999 22216
base cost expenditures per pupil, the district's actual fiscal 22217
year 1999 base cost expenditures per pupil were used in the 22218
calculation. For districts in the 1999 model that did not also 22219
meet the performance criteria of former division ~~(B)~~(C)(1) of this 22220
section, the actual 1999 base cost per pupil expenditures were 22221
used in the calculation of the average district per pupil costs of 22222
the model districts. 22223

Sec. 3317.013. This section does not apply to handicapped 22224
preschool students. 22225

Analysis of special education cost data has resulted in a 22226
finding that the average special education additional cost per 22227
pupil, including the costs of related services, can be expressed 22228
as a multiple of the base cost per pupil calculated under section 22229
3317.012 of the Revised Code. The multiples for the following 22230
categories of special education programs, as these programs are 22231
defined for purposes of Chapter 3323. of the Revised Code, and 22232
adjusted as provided in this section, are as follows: 22233

(A) A multiple of 0.2892 for students whose primary or only 22234
identified handicap is a speech and language handicap, as this 22235
term is defined pursuant to Chapter 3323. of the Revised Code; 22236

(B) A multiple of 0.3691 for students identified as specific 22237
learning disabled or developmentally handicapped, as these terms 22238
are defined pursuant to Chapter 3323. of the Revised Code, or 22239
other health handicapped-minor; 22240

(C) A multiple of 1.7695 for students identified as hearing 22241
handicapped, vision impaired, or severe behavior handicapped, as 22242
these terms are defined pursuant to Chapter 3323. of the Revised 22243
Code; 22244

(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 22275
equivalency, in accordance with rules adopted by the department of 22276
education pursuant to section 3317.03 of the Revised Code. In 22277
adopting its rules under this division, the department shall 22278
provide for counting any student in category one, two, three, 22279
four, five, or six special education ADM or in category one or two 22280
vocational education ADM in the same proportion the student is 22281
counted in formula ADM. 22282

(D)~~(1)~~ "Formula ADM" means, for a city, local, or exempted 22283
village school district, the number reported pursuant to division 22284
(A) of section 3317.03 of the Revised Code less any subtraction 22285
required under section 3317.034 of the Revised Code, and for a 22286
joint vocational school district, the number reported pursuant to 22287
division (D) of ~~that~~ section 3317.03 of the Revised Code less any 22288
subtraction required under section 3317.034 of the Revised Code. 22289

(2) "Adjusted formula ADM" for a city, local, or exempted 22290
village school district means the sum of formula ADM plus the 22291
number of internet- or computer-based community school students 22292
reported under division (B)(3)(e) of section 3317.03 of the 22293
Revised Code plus the number of scholarship students reported 22294
under division (B)(3)(f) of that section. 22295

(E) "Three-year average formula ADM" means the average of 22296
formula ADMs for the current and preceding two fiscal years. 22297
~~However, as applicable in fiscal years 1999 and 2000, the~~ 22298
~~three year average for city, local, and exempted village school~~ 22299
~~districts shall be determined utilizing the FY 1997 ADM or FY 1998~~ 22300
~~ADM in lieu of formula ADM for fiscal year 1997 or 1998. In fiscal~~ 22301
~~years 2000 and 2001, the three year average for joint vocational~~ 22302
~~school districts shall be determined utilizing the average daily~~ 22303
~~membership reported in fiscal years 1998 and 1999 under division~~ 22304
~~(D) of section 3317.03 of the Revised Code in lieu of formula ADM~~ 22305
~~for fiscal years 1998 and 1999.~~ 22306

~~(E) "FY 1997 ADM" or "FY 1998 ADM" means the school district's average daily membership reported for the applicable fiscal year under the version of division (A) of section 3317.03 of the Revised Code in effect during that fiscal year, adjusted as follows:~~

~~(1) Minus the average daily membership of handicapped preschool children;~~

~~(2) Minus one half of the average daily membership attending kindergarten;~~

~~(3) Minus three fourths of the average daily membership attending a joint vocational school district;~~

~~(4) Plus the average daily membership entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district but receiving educational services in approved units from an educational service center or another school district under a compact or a cooperative education agreement, as determined by the department;~~

~~(5) Minus the average daily membership receiving educational services from the district in approved units but entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in another school district, as determined by the department.~~

(F)(1) "Category one special education ADM" means the average daily membership of handicapped children receiving special education services for the handicap specified in division (A) of section 3317.013 of the Revised Code and reported under division (B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code.

(2) "Category two special education ADM" means the average daily membership of handicapped children receiving special education services for those handicaps specified in division (B) of section 3317.013 of the Revised Code and reported under

division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised Code. 22337
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(3) "Category three special education ADM" means the average 22339
daily membership of students receiving special education services 22340
for those handicaps specified in division (C) of section 3317.013 22341
of the Revised Code, and reported under division (B)(7) or 22342
(D)(2)(d) of section 3317.03 of the Revised Code. 22343

(4) "Category four special education ADM" means the average 22344
daily membership of students receiving special education services 22345
for those handicaps specified in division (D) of section 3317.013 22346
of the Revised Code and reported under division (B)(8) or 22347
(D)(2)(e) of section 3317.03 of the Revised Code. 22348

(5) "Category five special education ADM" means the average 22349
daily membership of students receiving special education services 22350
for the handicap specified in division (E) of section 3317.013 of 22351
the Revised Code and reported under division (B)(9) or (D)(2)(f) 22352
of section 3317.03 of the Revised Code. 22353

(6) "Category six special education ADM" means the average 22354
daily membership of students receiving special education services 22355
for the handicap specified in division (F) of section 3317.013 of 22356
the Revised Code and reported under division (B)(10) or (D)(2)(g) 22357
of section 3317.03 of the Revised Code. 22358

(7) "Category one vocational education ADM" means the average 22359
daily membership of students receiving vocational education 22360
services described in division (A) of section 3317.014 of the 22361
Revised Code and reported under division (B)(11) or (D)(2)(h) of 22362
section 3317.03 of the Revised Code. 22363

(8) "Category two vocational education ADM" means the average 22364
daily membership of students receiving vocational education 22365
services described in division (B) of section 3317.014 of the 22366
Revised Code and reported under division (B)(12) or (D)(2)(i) of 22367

section 3317.03 of the Revised Code. 22368

(G) "Handicapped preschool child" means a handicapped child, 22369
as defined in section 3323.01 of the Revised Code, who is at least 22370
age three but is not of compulsory school age, as defined in 22371
section 3321.01 of the Revised Code, and who is not currently 22372
enrolled in kindergarten. 22373

(H) "County MR/DD board" means a county board of mental 22374
retardation and developmental disabilities. 22375

(I) "Recognized valuation" means the amount calculated for a 22376
school district pursuant to section 3317.015 of the Revised Code. 22377

(J) "Transportation ADM" means the number of children 22378
reported under division (B)(13) of section 3317.03 of the Revised 22379
Code. 22380

(K) "Average efficient transportation use cost per student" 22381
means a statistical representation of transportation costs as 22382
calculated under division (D)(2) of section 3317.022 of the 22383
Revised Code. 22384

(L) "Taxes charged and payable" means the taxes charged and 22385
payable against real and public utility property after making the 22386
reduction required by section 319.301 of the Revised Code, plus 22387
the taxes levied against tangible personal property. 22388

(M) "Total taxable value" means the sum of the amounts 22389
certified for a city, local, exempted village, or joint vocational 22390
school district under divisions (A)(1) and (2) of section 3317.021 22391
of the Revised Code. 22392

(N) "Cost-of-doing-business factor" means the amount 22393
indicated in this division for the county in which a city, local, 22394
exempted village, or joint vocational school district is located. 22395
If a city, local, or exempted village school district is located 22396
in more than one county, the factor is the amount indicated for 22397

the county to which the district is assigned by the state 22398
department of education. If a joint vocational school district is 22399
located in more than one county, the factor is the amount 22400
indicated for the county in which the joint vocational school with 22401
the greatest formula ADM operated by the district is located. 22402

COST-OF-DOING-BUSINESS 22403

COUNTY	FACTOR	AMOUNT	
Adams	1.0035		22405
Allen	1.0206		22406
Ashland	1.0297		22407
Ashtabula	1.0397		22408
Athens	1.0014		22409
Auglaize	1.0247		22410
Belmont	1.0064		22411
Brown	1.0177		22412
Butler	1.0646		22413
Carroll	1.0137		22414
Champaign	1.0446		22415
Clark	1.0447		22416
Clermont	1.0541		22417
Clinton	1.0329		22418
Columbiana	1.0214		22419
Coshocton	1.0173		22420
Crawford	1.0164		22421
Cuyahoga	1.0626		22422
Darke	1.0338		22423
Defiance	1.0146		22424
Delaware	1.0528		22425
Erie	1.0388		22426
Fairfield	1.0366		22427
Fayette	1.0319		22428
Franklin	1.0608		22429
Fulton	1.0330		22430

Gallia	1.0000	22431
Geauga	1.0501	22432
Greene	1.0444	22433
Guernsey	1.0066	22434
Hamilton	1.0750	22435
Hancock	1.0215	22436
Hardin	1.0356	22437
Harrison	1.0074	22438
Henry	1.0318	22439
Highland	1.0148	22440
Hocking	1.0188	22441
Holmes	1.0178	22442
Huron	1.0293	22443
Jackson	1.0138	22444
Jefferson	1.0073	22445
Knox	1.0279	22446
Lake	1.0524	22447
Lawrence	1.0081	22448
Licking	1.0381	22449
Logan	1.0385	22450
Lorain	1.0515	22451
Lucas	1.0390	22452
Madison	1.0488	22453
Mahoning	1.0346	22454
Marion	1.0306	22455
Medina	1.0536	22456
Meigs	1.0026	22457
Mercer	1.0203	22458
Miami	1.0411	22459
Monroe	1.0050	22460
Montgomery	1.0453	22461
Morgan	1.0089	22462
Morrow	1.0301	22463

Muskingum	1.0127	22464
Noble	1.0073	22465
Ottawa	1.0486	22466
Paulding	1.0115	22467
Perry	1.0160	22468
Pickaway	1.0391	22469
Pike	1.0103	22470
Portage	1.0472	22471
Preble	1.0442	22472
Putnam	1.0216	22473
Richland	1.0199	22474
Ross	1.0151	22475
Sandusky	1.0321	22476
Scioto	1.0012	22477
Seneca	1.0223	22478
Shelby	1.0278	22479
Stark	1.0255	22480
Summit	1.0542	22481
Trumbull	1.0351	22482
Tuscarawas	1.0089	22483
Union	1.0500	22484
Van Wert	1.0133	22485
Vinton	1.0095	22486
Warren	1.0658	22487
Washington	1.0060	22488
Wayne	1.0348	22489
Williams	1.0228	22490
Wood	1.0360	22491
Wyandot	1.0171	22492

(O) "Tax exempt value" of a school district means the amount 22493
certified for a school district under division (A)(4) of section 22494
3317.021 of the Revised Code. 22495

(P) "Potential value" of a school district means the 22496
recognized valuation of a school district plus the tax exempt 22497
value of the district. 22498

(Q) "District median income" means the median Ohio adjusted 22499
gross income certified for a school district. On or before the 22500
first day of July of each year, the tax commissioner shall certify 22501
to the department of education for each city, exempted village, 22502
and local school district the median Ohio adjusted gross income of 22503
the residents of the school district determined on the basis of 22504
tax returns filed for the second preceding tax year by the 22505
residents of the district. 22506

(R) "Statewide median income" means the median district 22507
median income of all city, exempted village, and local school 22508
districts in the state. 22509

(S) "Income factor" for a city, exempted village, or local 22510
school district means the quotient obtained by dividing that 22511
district's median income by the statewide median income. 22512

(T) "Medically fragile child" means a child to whom all of 22513
the following apply: 22514

(1) The child requires the services of a doctor of medicine 22515
or osteopathic medicine at least once a week due to the 22516
instability of the child's medical condition. 22517

(2) The child requires the services of a registered nurse on 22518
a daily basis. 22519

(3) The child is at risk of institutionalization in a 22520
hospital, skilled nursing facility, or intermediate care facility 22521
for the mentally retarded. 22522

(U) A child may be identified as "other health 22523
handicapped-major" if the child's condition meets the definition 22524
of "other health impaired" established in rules adopted by the 22525

state board of education prior to July 1, 2001, and if either of 22526
the following apply: 22527

(1) The child is identified as having a medical condition 22528
that is among those listed by the superintendent of public 22529
instruction as conditions where a substantial majority of cases 22530
fall within the definition of "medically fragile child." The 22531
superintendent of public instruction shall issue an initial list 22532
no later than September 1, 2001. 22533

(2) The child is determined by the superintendent of public 22534
instruction to be a medically fragile child. A school district 22535
superintendent may petition the superintendent of public 22536
instruction for a determination that a child is a medically 22537
fragile child. 22538

(V) A child may be identified as "other health 22539
handicapped-minor" if the child's condition meets the definition 22540
of "other health impaired" established in rules adopted by the 22541
state board of education prior to July 1, 2001, but the child's 22542
condition does not meet either of the conditions specified in 22543
division (U)(1) or (2) of this section. 22544

(W) "SF-3 payment" means the sum of the payments to a school 22545
district in a fiscal year under divisions (A), (C)(1), (C)(4), 22546
(D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) 22547
of section 3317.024, and sections 3317.029, 3317.0212, 3317.0216, 22548
3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised 22549
Code after making the adjustments required by sections 3313.981 22550
and 3313.979 of the Revised Code, divisions (B), (C), (D), (E), 22551
(K), (L), (M), and (N) of section 3317.023, and division (C) of 22552
section 3317.20 of the Revised Code. 22553

(X) "Payments in lieu of taxes" means the amount certified by 22554
the director of development for each school district under 22555
division (E) of section 3317.021 of the Revised Code. 22556

(Y) "Incentive district tax-exempt value" means the amount 22557
certified for a school district under division (A)(6) of section 22558
3317.021 of the Revised Code. 22559

Sec. 3317.021. (A) On or before the first day of June of each 22560
year, the tax commissioner shall certify to the department of 22561
education the following information for each city, exempted 22562
village, and local school district, and the information required 22563
by divisions (A)(1) and (2) of this section for each joint 22564
vocational school district, and it shall be used, along with the 22565
information certified under division (B) of this section, in 22566
making the computations for the district under sections 3317.022 22567
and 3317.0217 or section 3317.16 of the Revised Code: 22568

(1) The taxable value of real and public utility real 22569
property in the school district subject to taxation in the 22570
preceding tax year, by class and by county of location; 22571

(2) The taxable value of tangible personal property, 22572
including public utility personal property, subject to taxation by 22573
the district for the preceding tax year; 22574

(3)(a) The total property tax rate and total taxes charged 22575
and payable for the current expenses for the preceding tax year 22576
and the total property tax rate and the total taxes charged and 22577
payable to a joint vocational district for the preceding tax year 22578
that are limited to or to the extent apportioned to current 22579
expenses; 22580

(b) The portion of the amount of taxes charged and payable 22581
reported for each city, local, and exempted village school 22582
district under division (A)(3)(a) of this section attributable to 22583
a joint vocational school district. 22584

(4) The value of all real and public utility real property in 22585
the school district exempted from taxation minus both of the 22586

following:	22587
(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;	22588 22589 22590
(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.	22591 22592 22593 22594
(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.	22595 22596 22597 22598
<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>	22599 22600 22601 22602 22603 22604 22605
(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.	22606 22607 22608 22609 22610 22611
(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	22612 22613 22614 22615 22616 22617

under divisions (A)(2) and (B) of this section for the school 22618
district shall include only the amount of taxable value on the 22619
basis of which the public utility paid tax for the preceding year 22620
as provided in division (B)(1) or (2) of section 5727.47 of the 22621
Revised Code. 22622

(D) If on the basis of the information certified under 22623
division (A) of this section, the department determines that any 22624
district fails in any year to meet the qualification requirement 22625
specified in division (A) of section 3317.01 of the Revised Code, 22626
the department shall immediately request the tax commissioner to 22627
determine the extent to which any school district income tax 22628
levied by the district under Chapter 5748. of the Revised Code 22629
shall be included in meeting that requirement. Within five days of 22630
receiving such a request from the department, the tax commissioner 22631
shall make the determination required by this division and report 22632
the quotient obtained under division (D)(3) of this section to the 22633
department. This quotient represents the number of mills that the 22634
department shall include in determining whether the district meets 22635
the qualification requirement of division (A) of section 3317.01 22636
of the Revised Code. 22637

The tax commissioner shall make the determination required by 22638
this division as follows: 22639

(1) Multiply one mill times the total taxable value of the 22640
district as determined in divisions (A)(1) and (2) of this 22641
section; 22642

(2) Estimate the total amount of tax liability for the 22643
current tax year under taxes levied by Chapter 5748. of the 22644
Revised Code that are apportioned to current operating expenses of 22645
the district; 22646

(3) Divide the amount estimated under division (D)(2) of this 22647
section by the product obtained under division (D)(1) of this 22648

section.

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(E) On or before the thirty-first day after the effective date of this amendment, and on or before the first day of June of each year thereafter, the director of development shall certify to the department of education the total amount of payments in lieu of taxes received by each city, exempted village, and local school district during the preceding tax year under division (B) of section 5709.82 of the Revised Code or otherwise in relation to exemptions from taxation granted under Chapter 725. or 1728. of the Revised Code, sections 3735.65 to 3735.70 of the Revised Code, or section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised Code. For this purpose, whenever any city, exempted village, or local school district enters into a contract or agreement with another party to receive such payments, the treasurer of the district shall report to the director of development the total amounts of such payments the district will receive each tax year pursuant to the contract or agreement. The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke the license of a school district treasurer found to have willfully reported erroneous, inaccurate, or incomplete data under this division.

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Sec. 3317.022. (A)~~(1)~~ The department of education shall compute and distribute state base cost funding to each school district for the fiscal year in accordance with ~~the following formula~~ division (A) of this section, making any adjustment required by division (A)~~(2)~~(3) of this section and using the information obtained under section 3317.021 of the Revised Code in the calendar year in which the fiscal year begins.

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~~Compute the following~~ (1) In fiscal year 2006, state base cost funding for each eligible district shall be computed as follows:

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(cost-of-doing-business factor X 22680
the formula amount X 22681
adjusted formula ADM) - 22682
[(.023 X recognized valuation) 22683
plus (0.50 X payments in lieu of taxes)] 22684

(2) Beginning in fiscal year 2007, state base cost funding 22685
for each eligible district shall be computed as the greater of the 22686
amount calculated under division (A)(2)(a) or (b) of this section 22687
minus [(0.023 times recognized valuation) plus (0.50 X payments in 22688
lieu of taxes)]. 22689

Accordingly, beginning in fiscal year 2007, the department 22690
shall calculate both of the following for each eligible district: 22691

(a) Cost-of-doing-business factor for fiscal year 2006 X 22692
formula amount for fiscal year 2006 X adjusted formula ADM for 22693
fiscal year 2006; 22694

(b) (Formula amount for the current fiscal year X current 22695
adjusted formula ADM) + the sum of the base funding supplements 22696
prescribed in divisions (B)(1) to (4) of section 3317.012 of the 22697
Revised Code. 22698

A district's base cost funding shall be the greater of the 22699
amount computed under division (A)(1)(a) or (b) of this section 22700
minus (0.023 times the sum of recognized valuation and incentive 22701
district tax exempt value). 22702

If the difference obtained is a negative number, the 22703
district's computation shall be zero. 22704

~~(2)~~(3)(a) For each school district for which the tax exempt 22705
value of the district equals or exceeds twenty-five per cent of 22706
the potential value of the district, the department of education 22707
shall calculate the difference between the district's tax exempt 22708
value and twenty-five per cent of the district's potential value. 22709

(b) For each school district to which division (A)~~(2)~~(3)(a) 22710
of this section applies, the department shall adjust the 22711
recognized valuation used in the calculation under division (A)(1) 22712
or (2) of this section by subtracting from it the amount 22713
calculated under division (A)~~(2)~~(3)(a) of this section. 22714

(B) As used in this section: 22715

(1) The "total special education weight" for a district means 22716
the sum of the following amounts: 22717

(a) The district's category one special education ADM 22718
multiplied by the multiple specified in division (A) of section 22719
3317.013 of the Revised Code; 22720

(b) The district's category two special education ADM 22721
multiplied by the multiple specified in division (B) of section 22722
3317.013 of the Revised Code; 22723

(c) The district's category three special education ADM 22724
multiplied by the multiple specified in division (C) of section 22725
3317.013 of the Revised Code; 22726

(d) The district's category four special education ADM 22727
multiplied by the multiple specified in division (D) of section 22728
3317.013 of the Revised Code; 22729

(e) The district's category five special education ADM 22730
multiplied by the multiple specified in division (E) of section 22731
3317.013 of the Revised Code; 22732

(f) The district's category six special education ADM 22733
multiplied by the multiple specified in division (F) of section 22734
3317.013 of the Revised Code. 22735

(2) "State share percentage" means the percentage calculated 22736
for a district as follows: 22737

(a) Calculate the state base cost funding amount for the 22738
district for the fiscal year under division (A) of this section. 22739

If the district would not receive any state base cost funding for that year under that division, the district's state share percentage is zero. 22740
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(b) If the district would receive state base cost funding under that division, in fiscal year 2006 divide that amount by an amount equal to the following: 22743
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Cost-of-doing-business factor X 22746

the formula amount X 22747

adjusted formula ADM 22748

(c) If the district would receive base cost funding under that division, in fiscal year 2007 or thereafter divide that amount by an amount equal to the greater of the following: 22749
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(i) Cost-of-doing-business factor for fiscal year 2006 X formula amount for fiscal year 2006 X adjusted formula ADM for fiscal year 2006; 22752
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(ii) (Formula amount for the current fiscal year X current adjusted formula ADM) + the sum of the base funding supplements prescribed in divisions (B)(1) to (4) of section 3317.012 of the Revised Code. 22755
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The resultant number in division (B)(2)(b) or (c) of this section is the district's state share percentage. 22759
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(3) "Related services" includes: 22761

(a) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for handicapped children whose handicaps are described in division (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department; 22762
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(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;	22770 22771 22772
(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;	22773 22774 22775
(d) Any service included in units funded under former division (0)(1) of section 3317.023 of the Revised Code;	22776 22777
(e) Any other related service needed by handicapped children in accordance with their individualized education plans.	22778 22779
(4) The "total vocational education weight" for a district means the sum of the following amounts:	22780 22781
(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;	22782 22783 22784
(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.	22785 22786 22787
(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:	22788 22789 22790 22791
The district's state share percentage	22792
X the formula amount for the year	22793
for which the aid is calculated	22794
X the district's total special education weight	22795
(2) The attributed local share of special education and related services additional weighted costs equals:	22796 22797
(1 - the district's state share percentage) X	22798
the district's total special education weight X	22799

the formula amount 22800

(3)(a) The department shall compute and pay in accordance 22801
with this division additional state aid to school districts for 22802
students in categories two through six special education ADM. If a 22803
district's costs for the fiscal year for a student in its 22804
categories two through six special education ADM exceed the 22805
threshold catastrophic cost for serving the student, the district 22806
may submit to the superintendent of public instruction 22807
documentation, as prescribed by the superintendent, of all its 22808
costs for that student. Upon submission of documentation for a 22809
student of the type and in the manner prescribed, the department 22810
shall pay to the district an amount equal to the sum of the 22811
following: 22812

(i) One-half of the district's costs for the student in 22813
excess of the threshold catastrophic cost; 22814

(ii) The product of one-half of the district's costs for the 22815
student in excess of the threshold catastrophic cost multiplied by 22816
the district's state share percentage. 22817

(b) For purposes of division (C)(3)(a) of this section, the 22818
threshold catastrophic cost for serving a student equals: 22819

(i) For a student in the school district's category two, 22820
three, four, or five special education ADM, twenty-five thousand 22821
dollars in fiscal year 2002 ~~and~~, twenty-five thousand seven 22822
hundred dollars in fiscal years 2003, 2004, and 2005, and 22823
twenty-six thousand five hundred dollars in fiscal years 2006 and 22824
2007; 22825

(ii) For a student in the district's category six special 22826
education ADM, thirty thousand dollars in fiscal year 2002 ~~and~~, 22827
thirty thousand eight hundred forty dollars in fiscal years 2003, 22828
2004, and 2005, and thirty-one thousand eight hundred dollars in 22829
fiscal years 2006 and 2007. 22830

(c) The district shall only report under division (C)(3)(a) 22831
of this section, and the department shall only pay for, the costs 22832
of educational expenses and the related services provided to the 22833
student in accordance with the student's individualized education 22834
program. Any legal fees, court costs, or other costs associated 22835
with any cause of action relating to the student may not be 22836
included in the amount. 22837

(4)(a) As used in this division, the "personnel allowance" 22838
means thirty thousand dollars in fiscal years 2002, 2003, 2004, 22839
~~and~~, 2005, 2006, and 2007. 22840

(b) For the provision of speech language pathology services 22841
to students, including students who do not have individualized 22842
education programs prepared for them under Chapter 3323. of the 22843
Revised Code, and for no other purpose, the department of 22844
education shall pay each school district an amount calculated 22845
under the following formula: 22846

(formula ADM divided by 2000) X 22847

the personnel allowance X the state share percentage 22848

(5) In ~~any~~ fiscal year 2006, a school district shall spend 22849
for purposes that the department designates as approved for 22850
special education and related services expenses at least the 22851
amount calculated as follows: 22852

(cost-of-doing-business factor X 22853

formula amount X the sum of categories 22854

one through six special education ADM) + 22855

(total special education weight X formula amount) 22856

In fiscal year 2007 and thereafter, a school district shall 22857
spend for those purposes at least the greater of the amount 22858
calculated under division (C)(5)(a) or (b) of this section + 22859
(total special education weight X formula amount). 22860

In making the calculation required under division (C)(5) of 22861

this section, the department shall calculate for each school 22862
district both of the following: 22863

(a) Cost-of-doing-business factor for fiscal year 2006 X 22864
formula amount for fiscal year 2006 X the sum of categories one 22865
through six special education ADM for fiscal year 2006; 22866

(b) Formula amount for the current fiscal year X the sum of 22867
categories one through six special education ADM for the current 22868
fiscal year. 22869

The purposes approved by the department for special education 22870
expenses shall include, but shall not be limited to, 22871
identification of handicapped children, compliance with state 22872
rules governing the education of handicapped children and 22873
prescribing the continuum of program options for handicapped 22874
children, provision of speech language pathology services, and the 22875
portion of the school district's overall administrative and 22876
overhead costs that are attributable to the district's special 22877
education student population. 22878

The department shall require school districts to report data 22879
annually to allow for monitoring compliance with division (C)(5) 22880
of this section. The department shall annually report to the 22881
governor and the general assembly the amount of money spent by 22882
each school district for special education and related services. 22883

(6) In any fiscal year, a school district shall spend for the 22884
provision of speech language pathology services not less than the 22885
sum of the amount calculated under division (C)(1) of this section 22886
for the students in the district's category one special education 22887
ADM and the amount calculated under division (C)(4) of this 22888
section. 22889

(D)(1) As used in this division: 22890

(a) "Daily bus miles per student" equals the number of bus 22891

miles traveled per day, divided by transportation base. 22892

(b) "Transportation base" equals total student count as 22893
defined in section 3301.011 of the Revised Code, minus the number 22894
of students enrolled in preschool handicapped units, plus the 22895
number of nonpublic school students included in transportation 22896
ADM. 22897

(c) "Transported student percentage" equals transportation 22898
ADM divided by transportation base. 22899

(d) "Transportation cost per student" equals total operating 22900
costs for board-owned or contractor-operated school buses divided 22901
by transportation base. 22902

(2) Analysis of student transportation cost data has resulted 22903
in a finding that an average efficient transportation use cost per 22904
student can be calculated by means of a regression formula that 22905
has as its two independent variables the number of daily bus miles 22906
per student and the transported student percentage. For fiscal 22907
year 1998 transportation cost data, the average efficient 22908
transportation use cost per student is expressed as follows: 22909

51.79027 + (139.62626 X daily bus miles per student) + 22910
(116.25573 X transported student percentage) 22911

The department of education shall annually determine the 22912
average efficient transportation use cost per student in 22913
accordance with the principles stated in division (D)(2) of this 22914
section, updating the intercept and regression coefficients of the 22915
regression formula modeled in this division, based on an annual 22916
statewide analysis of each school district's daily bus miles per 22917
student, transported student percentage, and transportation cost 22918
per student data. The department shall conduct the annual update 22919
using data, including daily bus miles per student, transported 22920
student percentage, and transportation cost per student data, from 22921
the prior fiscal year. The department shall notify the office of 22922

budget and management of such update by the fifteenth day of 22923
February of each year. 22924

(3) In addition to funds paid under divisions (A), (C), and 22925
(E) of this section, each district with a transported student 22926
percentage greater than zero shall receive a payment equal to a 22927
percentage of the product of the district's transportation base 22928
from the prior fiscal year times the annually updated average 22929
efficient transportation use cost per student, times an inflation 22930
factor of two and eight tenths per cent to account for the 22931
one-year difference between the data used in updating the formula 22932
and calculating the payment and the year in which the payment is 22933
made. The percentage shall be the following percentage of that 22934
product specified for the corresponding fiscal year: 22935

FISCAL YEAR	PERCENTAGE	22936
2000	52.5%	22937
2001	55%	22938
2002	57.5%	22939
2003 and thereafter	The greater of 60% or the district's state share percentage	22940

The payments made under division (D)(3) of this section each 22941
year shall be calculated based on all of the same prior year's 22942
data used to update the formula. 22943

(4) In addition to funds paid under divisions (D)(2) and (3) 22944
of this section, a school district shall receive a rough road 22945
subsidy if both of the following apply: 22946

(a) Its county rough road percentage is higher than the 22947
statewide rough road percentage, as those terms are defined in 22948
division (D)(5) of this section; 22949

(b) Its district student density is lower than the statewide 22950
student density, as those terms are defined in that division. 22951

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

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

where:

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

$$0.75 - \{0.75 \times [(\text{maximum rough road percentage} - \text{county rough road percentage}) / (\text{maximum rough road percentage} - \text{statewide rough road percentage})]\}$$

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

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

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

(b) "Total rough road miles" means a school district's total bus miles traveled in one year times its county rough road percentage.

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

$$1 - [(\text{minimum student density} - \text{district student}$$

density)/(minimum student density - 22982
statewide student density)] 22983

(i) "Minimum student density" means the lowest district 22984
student density in the state. 22985

(ii) "District student density" means a school district's 22986
transportation base divided by the number of square miles in the 22987
district. 22988

(iii) "Statewide student density" means the sum of the 22989
transportation bases for all school districts divided by the sum 22990
of the square miles in all school districts. 22991

(6) In addition to funds paid under divisions (D)(2) to (5) 22992
of this section, each district shall receive in accordance with 22993
rules adopted by the state board of education a payment for 22994
students transported by means other than board-owned or 22995
contractor-operated buses and whose transportation is not funded 22996
under division (J) of section 3317.024 of the Revised Code. The 22997
rules shall include provisions for school district reporting of 22998
such students. 22999

(E)(1) The department shall compute and distribute state 23000
vocational education additional weighted costs funds to each 23001
school district in accordance with the following formula: 23002

state share percentage X 23003
the formula amount X 23004
total vocational education weight 23005

In any fiscal year, a school district receiving funds under 23006
division (E)(1) of this section shall spend those funds only for 23007
the purposes that the department designates as approved for 23008
vocational education expenses. Vocational educational expenses 23009
approved by the department shall include only expenses connected 23010
to the delivery of career-technical programming to 23011
career-technical students. The department shall require the school 23012

district to report data annually so that the department may 23013
monitor the district's compliance with the requirements regarding 23014
the manner in which funding received under division (E)(1) of this 23015
section may be spent. 23016

(2) The department shall compute for each school district 23017
state funds for vocational education associated services in 23018
accordance with the following formula: 23019

state share percentage X .05 X 23020

the formula amount X the sum of categories one and two 23021

vocational education ADM 23022

In any fiscal year, a school district receiving funds under 23023
division (E)(2) of this section, or through a transfer of funds 23024
pursuant to division (L) of section 3317.023 of the Revised Code, 23025
shall spend those funds only for the purposes that the department 23026
designates as approved for vocational education associated 23027
services expenses, which may include such purposes as 23028
apprenticeship coordinators, coordinators for other vocational 23029
education services, vocational evaluation, and other purposes 23030
designated by the department. The department may deny payment 23031
under division (E)(2) of this section to any district that the 23032
department determines is not operating those services or is using 23033
funds paid under division (E)(2) of this section, or through a 23034
transfer of funds pursuant to division (L) of section 3317.023 of 23035
the Revised Code, for other purposes. 23036

(F) The actual local share in any fiscal year for the 23037
combination of special education and related services additional 23038
weighted costs funding calculated under division (C)(1) of this 23039
section, transportation funding calculated under divisions (D)(2) 23040
and (3) of this section, and vocational education and associated 23041
services additional weighted costs funding calculated under 23042
divisions (E)(1) and (2) of this section shall not exceed for any 23043
school district the product of three and three-tenths mills times 23044

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 23075
sources or assigned full-time to vocational or special education 23076
students and classes and may only include those persons employed 23077
in the eight specialist areas in a pattern approved by the 23078
department of education under guidelines established by the state 23079
board of education. 23080

(3) "Annual salary" means the annual base salary stated in 23081
the state minimum salary schedule for the performance of the 23082
teacher's regular teaching duties that the teacher earns for 23083
services rendered for the first full week of October of the fiscal 23084
year for which the adjustment is made under division (C) of this 23085
section. It shall not include any salary payments for supplemental 23086
teachers contracts. 23087

(4) "Regular student population" means the formula ADM plus 23088
the number of students reported as enrolled in the district 23089
pursuant to division (A)(1) of section 3313.981 of the Revised 23090
Code; minus the number of students reported under division (A)(2) 23091
of section 3317.03 of the Revised Code; minus the FTE of students 23092
reported under division (B)(6), (7), (8), (9), (10), (11), or (12) 23093
of that section who are enrolled in a vocational education class 23094
or receiving special education; and minus twenty per cent of the 23095
students enrolled concurrently in a joint vocational school 23096
district. 23097

(5) "State share percentage" has the same meaning as in 23098
section 3317.022 of the Revised Code. 23099

(6) "VEPD" means a school district or group of school 23100
districts designated by the department of education as being 23101
responsible for the planning for and provision of vocational 23102
education services to students within the district or group. 23103

(7) "Lead district" means a school district, including a 23104
joint vocational school district, designated by the department as 23105

a VEPD, or designated to provide primary vocational education 23106
leadership within a VEPD composed of a group of districts. 23107

(B) If the district employs less than one full-time 23108
equivalent classroom teacher for each twenty-five pupils in the 23109
regular student population in any school district, deduct the sum 23110
of the amounts obtained from the following computations: 23111

(1) Divide the number of the district's full-time equivalent 23112
classroom teachers employed by one twenty-fifth; 23113

(2) Subtract the quotient in (1) from the district's regular 23114
student population; 23115

(3) Multiply the difference in (2) by seven hundred fifty-two 23116
dollars. 23117

(C) If a positive amount, add one-half of the amount obtained 23118
by multiplying the number of full-time equivalent classroom 23119
teachers by: 23120

(1) The mean annual salary of all full-time equivalent 23121
classroom teachers employed by the district at their respective 23122
training and experience levels minus; 23123

(2) The mean annual salary of all such teachers at their 23124
respective levels in all school districts receiving payments under 23125
this section. 23126

The number of full-time equivalent classroom teachers used in 23127
this computation shall not exceed one twenty-fifth of the 23128
district's regular student population. In calculating the 23129
district's mean salary under this division, those full-time 23130
equivalent classroom teachers with the highest training level 23131
shall be counted first, those with the next highest training level 23132
second, and so on, in descending order. Within the respective 23133
training levels, teachers with the highest years of service shall 23134
be counted first, the next highest years of service second, and so 23135

on, in descending order. 23136

(D) This division does not apply to a school district that 23137
has entered into an agreement under division (A) of section 23138
3313.42 of the Revised Code. Deduct the amount obtained from the 23139
following computations if the district employs fewer than five 23140
full-time equivalent educational service personnel, including 23141
elementary school art, music, and physical education teachers, 23142
counselors, librarians, visiting teachers, school social workers, 23143
and school nurses for each one thousand pupils in the regular 23144
student population: 23145

(1) Divide the number of full-time equivalent educational 23146
service personnel employed by the district by five 23147
one-thousandths; 23148

(2) Subtract the quotient in (1) from the district's regular 23149
student population; 23150

(3) Multiply the difference in (2) by ninety-four dollars. 23151

(E) If a local school district, or a city or exempted village 23152
school district to which a governing board of an educational 23153
service center provides services pursuant to section 3313.843 of 23154
the Revised Code, deduct the amount of the payment required for 23155
the reimbursement of the governing board under section 3317.11 of 23156
the Revised Code. 23157

(F)(1) If the district is required to pay to or entitled to 23158
receive tuition from another school district under division (C)(2) 23159
or (3) of section 3313.64 or section 3313.65 of the Revised Code, 23160
or if the superintendent of public instruction is required to 23161
determine the correct amount of tuition and make a deduction or 23162
credit under section 3317.08 of the Revised Code, deduct and 23163
credit such amounts as provided in division (J) of section 3313.64 23164
or section 3317.08 of the Revised Code. 23165

(2) For each child for whom the district is responsible for 23166
tuition or payment under division (A)(1) of section 3317.082 or 23167
section 3323.091 of the Revised Code, deduct the amount of tuition 23168
or payment for which the district is responsible. 23169

(G) If the district has been certified by the superintendent 23170
of public instruction under section 3313.90 of the Revised Code as 23171
not in compliance with the requirements of that section, deduct an 23172
amount equal to ten per cent of the amount computed for the 23173
district under section 3317.022 of the Revised Code. 23174

(H) If the district has received a loan from a commercial 23175
lending institution for which payments are made by the 23176
superintendent of public instruction pursuant to division (E)(3) 23177
of section 3313.483 of the Revised Code, deduct an amount equal to 23178
such payments. 23179

(I)(1) If the district is a party to an agreement entered 23180
into under division (D), (E), or (F) of section 3311.06 or 23181
division (B) of section 3311.24 of the Revised Code and is 23182
obligated to make payments to another district under such an 23183
agreement, deduct an amount equal to such payments if the district 23184
school board notifies the department in writing that it wishes to 23185
have such payments deducted. 23186

(2) If the district is entitled to receive payments from 23187
another district that has notified the department to deduct such 23188
payments under division (I)(1) of this section, add the amount of 23189
such payments. 23190

(J) If the district is required to pay an amount of funds to 23191
a cooperative education district pursuant to a provision described 23192
by division (B)(4) of section 3311.52 or division (B)(8) of 23193
section 3311.521 of the Revised Code, deduct such amounts as 23194
provided under that provision and credit those amounts to the 23195
cooperative education district for payment to the district under 23196

division (B)(1) of section 3317.19 of the Revised Code. 23197

(K)(1) If a district is educating a student entitled to 23198
attend school in another district pursuant to a shared education 23199
contract, compact, or cooperative education agreement other than 23200
an agreement entered into pursuant to section 3313.842 of the 23201
Revised Code, credit to that educating district on an FTE basis 23202
the amounts prescribed in division (K)(1)(a) or (b) of this 23203
section as follows: 23204

(a) In fiscal year 2006, credit both of the following: 23205

~~(a)~~(i) An amount equal to the formula amount times the cost 23206
of doing business factor of the school district where the student 23207
is entitled to attend school pursuant to section 3313.64 or 23208
3313.65 of the Revised Code; 23209

~~(b)~~(ii) An amount equal to the formula amount times the state 23210
share percentage times any multiple applicable to the student 23211
pursuant to section 3317.013 or 3317.014 of the Revised Code. 23212

(b) In fiscal year 2007 and thereafter, credit both of the 23213
following: 23214

(i) An amount equal to the greater of either the product of 23215
the fiscal year 2006 formula amount times the fiscal year 2006 23216
cost-of-doing-business factor of the school district where the 23217
student is entitled to attend school pursuant to section 3313.64 23218
or 3313.65 of the Revised Code or the sum of the current formula 23219
amount plus the per pupil amount of the base funding supplements 23220
specified in divisions (B)(1) to (4) of section 3317.012 of the 23221
Revised Code. 23222

(ii) An amount equal to the current formula amount times the 23223
state share percentage times any multiple applicable to the 23224
student pursuant to section 3317.013 or 3317.014 of the Revised 23225
Code. 23226

(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 23258
that amount from the district of residence of that child. 23259

Sec. 3317.024. In addition to the moneys paid to eligible 23260
school districts pursuant to section 3317.022 of the Revised Code, 23261
moneys appropriated for the education programs in divisions (A) to 23262
(H), (J) to (L), (O), (P), and (R) of this section shall be 23263
distributed to school districts meeting the requirements of 23264
section 3317.01 of the Revised Code; in the case of divisions (J) 23265
and (P) of this section, to educational service centers as 23266
provided in section 3317.11 of the Revised Code; in the case of 23267
divisions (E), (M), and (N) of this section, to county MR/DD 23268
boards; in the case of division (R) of this section, to joint 23269
vocational school districts; in the case of division (K) of this 23270
section, to cooperative education school districts; and in the 23271
case of division (Q) of this section, to the institutions defined 23272
under section 3317.082 of the Revised Code providing elementary or 23273
secondary education programs to children other than children 23274
receiving special education under section 3323.091 of the Revised 23275
Code. The following shall be distributed monthly, quarterly, or 23276
annually as may be determined by the state board of education: 23277

(A) A per pupil amount to each school district that 23278
establishes a summer school remediation program that complies with 23279
rules of the state board of education. 23280

(B) An amount for each island school district and each joint 23281
state school district for the operation of each high school and 23282
each elementary school maintained within such district and for 23283
capital improvements for such schools. Such amounts shall be 23284
determined on the basis of standards adopted by the state board of 23285
education. 23286

(C) An amount for each school district operating classes for 23287
children of migrant workers who are unable to be in attendance in 23288

an Ohio school during the entire regular school year. The amounts 23289
shall be determined on the basis of standards adopted by the state 23290
board of education, except that payment shall be made only for 23291
subjects regularly offered by the school district providing the 23292
classes. 23293

(D) An amount for each school district with guidance, 23294
testing, and counseling programs approved by the state board of 23295
education. The amount shall be determined on the basis of 23296
standards adopted by the state board of education. 23297

(E) An amount for the emergency purchase of school buses as 23298
provided for in section 3317.07 of the Revised Code; 23299

(F) An amount for each school district required to pay 23300
tuition for a child in an institution maintained by the department 23301
of youth services pursuant to section 3317.082 of the Revised 23302
Code, provided the child was not included in the calculation of 23303
the district's average daily membership for the preceding school 23304
year. 23305

(G) In fiscal year 2000 only, an amount to each school 23306
district for supplemental salary allowances for each licensed 23307
employee except those licensees serving as superintendents, 23308
assistant superintendents, principals, or assistant principals, 23309
whose term of service in any year is extended beyond the term of 23310
service of regular classroom teachers, as described in section 23311
3301.0725 of the Revised Code; 23312

(H) An amount for adult basic literacy education for each 23313
district participating in programs approved by the state board of 23314
education. The amount shall be determined on the basis of 23315
standards adopted by the state board of education. 23316

(I) Notwithstanding section 3317.01 of the Revised Code, but 23317
only until June 30, 1999, to each city, local, and exempted 23318
village school district, an amount for conducting driver education 23319

courses at high schools for which the state board of education 23320
prescribes minimum standards and to joint vocational and 23321
cooperative education school districts and educational service 23322
centers, an amount for conducting driver education courses to 23323
pupils enrolled in a high school for which the state board 23324
prescribes minimum standards. No payments shall be made under this 23325
division after June 30, 1999. 23326

(J) An amount for the approved cost of transporting 23327
developmentally handicapped eligible pupils with disabilities 23328
attending a special education program approved by the department 23329
of education whom it is impossible or impractical to transport by 23330
regular school bus in the course of regular route transportation 23331
provided by the district or service center. No district or service 23332
center is eligible to receive a payment under this division for 23333
the cost of transporting any pupil whom it transports by regular 23334
school bus and who is included in the district's transportation 23335
ADM. The state board of education shall establish standards and 23336
guidelines for use by the department of education in determining 23337
the approved cost of such transportation for each district or 23338
service center. 23339

(K) An amount to each school district, including each 23340
cooperative education school district, pursuant to section 3313.81 23341
of the Revised Code to assist in providing free lunches to needy 23342
children and an amount to assist needy school districts in 23343
purchasing necessary equipment for food preparation. The amounts 23344
shall be determined on the basis of rules adopted by the state 23345
board of education. 23346

(L) An amount to each school district, for each pupil 23347
attending a chartered nonpublic elementary or high school within 23348
the district. The amount shall equal the amount appropriated for 23349
the implementation of section 3317.06 of the Revised Code divided 23350
by the average daily membership in grades kindergarten through 23351

twelve in nonpublic elementary and high schools within the state 23352
as determined during the first full week in October of each school 23353
year. 23354

(M) An amount for each county MR/DD board, distributed on the 23355
basis of standards adopted by the state board of education, for 23356
the approved cost of transportation required for children 23357
attending special education programs operated by the county MR/DD 23358
board under section 3323.09 of the Revised Code; 23359

(N) An amount for each county MR/DD board, distributed on the 23360
basis of standards adopted by the state board of education, for 23361
supportive home services for preschool children; 23362

(O) An amount for each school district that establishes a 23363
mentor teacher program that complies with rules of the state board 23364
of education. No school district shall be required to establish or 23365
maintain such a program in any year unless sufficient funds are 23366
appropriated to cover the district's total costs for the program. 23367

(P) An amount to each school district or educational service 23368
center for the total number of gifted units approved pursuant to 23369
section 3317.05 of the Revised Code. The amount for each such unit 23370
shall be the sum of the minimum salary for the teacher of the 23371
unit, calculated on the basis of the teacher's training level and 23372
years of experience pursuant to the salary schedule prescribed in 23373
the version of section 3317.13 of the Revised Code in effect prior 23374
to July 1, 2001, plus fifteen per cent of that minimum salary 23375
amount, plus two thousand six hundred seventy-eight dollars. 23376

(Q) An amount to each institution defined under section 23377
3317.082 of the Revised Code providing elementary or secondary 23378
education to children other than children receiving special 23379
education under section 3323.091 of the Revised Code. This amount 23380
for any institution in any fiscal year shall equal the total of 23381
all tuition amounts required to be paid to the institution under 23382

division (A)(1) of section 3317.082 of the Revised Code. 23383

(R) A grant to each school district and joint vocational 23384
school district that operates a "graduation, reality, and 23385
dual-role skills" (GRADS) program for pregnant and parenting 23386
students that is approved by the department. The amount of the 23387
payment shall be the district's state share percentage, as defined 23388
in section 3317.022 or 3317.16 of the Revised Code, times the 23389
GRADS personnel allowance times the full-time-equivalent number of 23390
GRADS teachers approved by the department. The GRADS personnel 23391
allowance is \$47,555 in fiscal years 2004 ~~and~~, 2005, 2006, and 23392
2007. 23393

The state board of education or any other board of education 23394
or governing board may provide for any resident of a district or 23395
educational service center territory any educational service for 23396
which funds are made available to the board by the United States 23397
under the authority of public law, whether such funds come 23398
directly or indirectly from the United States or any agency or 23399
department thereof or through the state or any agency, department, 23400
or political subdivision thereof. 23401

Sec. 3317.026. (A) As used in this section, "refunded taxes" 23402
means taxes charged and payable from real and tangible personal 23403
property, including public utility property, that have been found 23404
to have been overpaid as the result of reductions in the taxable 23405
value of such property and that have been refunded, including any 23406
interest or penalty refunded with those taxes. If taxes are 23407
refunded over a period of time pursuant to division (B)(2), (3), 23408
or (4) of section 319.36 or division (C) of section 5727.471 of 23409
the Revised Code, the total amount of taxes required to be 23410
refunded, excluding any interest accruing after the day the 23411
undertaking is entered into, shall be considered to have been 23412
refunded on the day the first portion of the overpayment is paid 23413

or credited. 23414

(B) Not later than the last day of February each year, each 23415
county auditor shall certify to the tax commissioner, for each 23416
school district in the county, the amount of refunded taxes 23417
refunded in the preceding calendar year and the reductions in 23418
taxable value that resulted in those refunds, except for 23419
reductions in taxable value that previously have been reported to 23420
the tax commissioner on an abstract. If the tax commissioner 23421
determines that the amount of refunded taxes certified for a 23422
school district exceeds three per cent of the total taxes charged 23423
and payable for current expenses of the school district for the 23424
calendar year in which those taxes were refunded, the tax 23425
commissioner shall certify the reductions in taxable value that 23426
resulted in those refunds on or before the first day of June to 23427
the department of education. Upon receiving the certification by 23428
the tax commissioner, the department of education shall reduce the 23429
total taxable value of the school district, as defined in section 23430
3317.02 of the Revised Code, by the total amount of the reductions 23431
in taxable value that resulted in those refunds for the purpose of 23432
computing the ~~state aid~~ SF-3 payment for the school district for 23433
the current fiscal year ~~under section 3317.022 of the Revised~~ 23434
~~Code~~. The increase in the amount of such aid resulting from the 23435
adjustment required by this section shall be paid to the school 23436
district on or before the ~~thirtieth~~ thirty-first day of ~~June~~ July 23437
of the ~~current~~ following fiscal year. 23438

If an adjustment is made under this division in the amount of 23439
state aid paid to a school district, the tax value reductions from 23440
which that adjustment results shall not be used in recomputing aid 23441
to a school district under section 3317.027 of the Revised Code. 23442

~~(D)~~(C) If a school district received a grant from the 23443
catastrophic expenditures account pursuant to division (C) of 23444
section 3316.20 of the Revised Code on the basis of the same 23445

circumstances for which an adjustment is made under this section, 23446
the amount of the adjustment shall be reduced and transferred in 23447
accordance with division (C) of section 3316.20 of the Revised 23448
Code. 23449

(D) Not later than the first day of June each year, the tax 23450
commissioner shall certify to the department of education for each 23451
school district the total of the increases in taxable value above 23452
the amount of taxable value on which tax was paid, as provided in 23453
division (B)(1) or (2) of section 5727.47 of the Revised Code, as 23454
determined by the commissioner, and for which a notification was 23455
sent pursuant to section 5727.471 of the Revised Code, in the 23456
preceding calendar year. Upon receiving the certification, the 23457
department shall increase the total taxable value, as defined in 23458
section 3317.02 of the Revised Code, of the school district by the 23459
total amount of the increase in taxable value certified by the 23460
commissioner for the school district for the purpose of computing 23461
the school district's ~~state aid~~ SF-3 payment for the following 23462
fiscal year ~~under sections 3317.022 and 3317.0212 of the Revised~~ 23463
Code. 23464

Sec. 3317.027. On or before the fifteenth day of May of each 23465
year, the tax commissioner shall certify to the department of 23466
education: 23467

(A) The amount by which applications filed under section 23468
5713.38 of the Revised Code or complaints filed under section 23469
5715.19 of the Revised Code resulted in a reduction in the second 23470
preceding year's taxable value in each school district in which 23471
such a reduction occurred, and the amount by which such reduction 23472
reduced the district's taxes charged and payable for such year; 23473
and 23474

(B) The taxes charged and payable for the second preceding 23475
tax year that were remitted under section 5713.081 of the Revised 23476

Code and the taxable value against which such taxes were imposed. 23477

Upon receipt of such certifications, the department shall 23478
recompute the ~~state aid for such year under section 3317.022 of~~ 23479
~~the Revised Code district's SF-3 payment~~ and determine the amount 23480
~~of aid that the SF-3 payment~~ would have been paid had the taxable 23481
value not been used in the computation made under division (A)(1) 23482
of section 3317.021 of the Revised Code and had the taxes charged 23483
and payable not been included in the certification made under 23484
division (A)(3) of such section. The department shall ~~adjust~~ 23485
calculate the amount that the remainder of the fiscal year's 23486
~~payments so the district's total payments should have been~~ for the 23487
fiscal year ~~equal~~ including the amount of the ~~recomputation SF-3~~ 23488
payment as recomputed. The increase or decrease in the amount of 23489
aid resulting from the adjustment required under this section 23490
shall be paid to the school district on or before the thirty-first 23491
day of July of the following fiscal year. 23492

If a school district received a grant from the catastrophic 23493
expenditures account pursuant to division (C) of section 3316.20 23494
of the Revised Code on the basis of the same circumstances for 23495
which a recomputation is made under this section, the amount of 23496
the recomputation shall be reduced and transferred in accordance 23497
with division (C) of section 3316.20 of the Revised Code. 23498

Sec. 3317.028. (A) On or before the fifteenth day of May in 23499
each calendar year prior to calendar year 2007, the tax 23500
commissioner shall determine for each school district whether the 23501
taxable value of all tangible personal property, including utility 23502
tangible personal property, subject to taxation by the district in 23503
the preceding tax year was less or greater than the taxable value 23504
of such property during the second preceding tax year. If any such 23505
decrease exceeds five per cent of the district's tangible personal 23506
property taxable value included in the total taxable value used in 23507

computing the district's ~~state aid computation~~ SF-3 payment for 23508
the fiscal year that ends in the current calendar year, or if any 23509
such increase exceeds five per cent of the district's total 23510
taxable value used in computing the district's ~~state aid~~ 23511
~~computation~~ SF-3 payment for the fiscal year that ends in the 23512
current calendar year, the tax commissioner shall certify both of 23513
the following to the department of education: 23514

(1) The taxable value of the tangible personal property 23515
increase or decrease, including utility tangible personal property 23516
increase or decrease, which shall be considered a change in 23517
valuation; 23518

(2) The decrease or increase in taxes charged and payable on 23519
such change in taxable value calculated in the same manner as in 23520
division (A)(3) of section 3317.021 of the Revised Code. 23521

(B) ~~Notwithstanding division (A) of this section, when~~ 23522
~~determining under that division in calendar year 2002 whether the~~ 23523
~~taxable value of tangible personal property subject to taxation by~~ 23524
~~each school district in the preceding tax year was less or greater~~ 23525
~~than the taxable value of such property during the second~~ 23526
~~preceding tax year, the tax commissioner shall exclude from the~~ 23527
~~taxable value for both years the tax value loss, as defined in~~ 23528
~~section 5727.84 of the Revised Code~~ On or before May 15, 2007, and 23529
the fifteenth day of May in each calendar year thereafter, the tax 23530
commissioner shall determine for each school district whether the 23531
taxable value of all utility tangible personal property subject to 23532
taxation by the district in the preceding tax year was less or 23533
greater than the taxable value of such property during the second 23534
preceding tax year. If any decrease exceeds five per cent of the 23535
district's tangible personal property taxable value included in 23536
the total taxable value used in the district's state aid 23537
computation for the fiscal year that ends in the current calendar 23538
year, or if any increase exceeds five per cent of the district's 23539

total taxable value used in the district's state aid computation 23540
for the fiscal year that ends in the current calendar year, the 23541
tax commissioner shall certify both of the following to the 23542
department of education: 23543

(1) The taxable value of the utility tangible personal 23544
property increase or decrease, which shall be considered a change 23545
in valuation; 23546

(2) The decrease or increase in taxes charged and payable on 23547
such change in taxable value calculated in the same manner as in 23548
division (A)(3) of section 3317.021 of the Revised Code. 23549

(C) Upon receipt of ~~such a~~ certification specified in this 23550
section, the department of education shall reduce or increase by 23551
the respective amounts certified, and the taxable value and the 23552
taxes charged and payable that were used in computing the 23553
district's ~~state aid computation under section 3317.022 of the~~ 23554
~~Revised Code~~ SF-3 payment for the fiscal year that ends in the 23555
current calendar year and shall recompute the ~~state aid~~ SF-3 23556
payment for such fiscal year. ~~During the last six months of the~~ 23557
~~fiscal year, the~~ The department shall pay the district a sum equal 23558
to one-half of the recomputed payments in lieu of the payments 23559
otherwise required under ~~such sections~~ that section on or before 23560
the thirty-first day of July of the following fiscal year. 23561

(D) If a school district received a grant from the 23562
catastrophic expenditures account pursuant to division (C) of 23563
section 3316.20 of the Revised Code on the basis of the same 23564
circumstances for which a recomputation is made under this 23565
section, the amount of the recomputation shall be reduced and 23566
transferred in accordance with division (C) of section 3316.20 of 23567
the Revised Code. 23568

Sec. 3317.029. (A) As used in this section: 23569

- (1) "~~DPIA~~ Poverty percentage" means+ 23570
- ~~(a) In fiscal years prior to fiscal year 2004, the quotient~~ 23571
~~obtained by dividing the five year average number of children ages~~ 23572
~~five to seventeen residing in the school district and living in a~~ 23573
~~family receiving assistance under the Ohio works first program or~~ 23574
~~an antecedent program known as TANF or ADC, as certified or~~ 23575
~~adjusted under section 3317.10 of the Revised Code, by the~~ 23576
~~district's three year average formula ADM.~~ 23577
- ~~(b) Beginning in fiscal year 2004, the unduplicated number of~~ 23578
children ages five to seventeen residing in the school district 23579
and living in a family that has family income not exceeding the 23580
federal poverty guidelines and that receives family assistance, as 23581
certified or adjusted under section 3317.10 of the Revised Code, 23582
divided by the district's three-year average formula ADM. 23583
- (2) "Family assistance" means assistance received under one 23584
of the following: 23585
- (a) The Ohio works first program; 23586
- (b) The food stamp program; 23587
- (c) The medical assistance program, including the healthy 23588
start program, established under Chapter 5111. of the Revised 23589
Code; 23590
- (d) The children's health insurance program part I 23591
established under section 5101.50 of the Revised Code or, prior to 23592
fiscal year 2000, an executive order issued under section 107.17 23593
of the Revised Code; 23594
- (e) The disability financial assistance program established 23595
under Chapter 5115. of the Revised Code+ 23596
- ~~(f) The disability medical assistance program established~~ 23597
~~under Chapter 5115. of the Revised Code.~~ 23598
- (3) "Statewide ~~DPIA~~ poverty percentage" means+ 23599

~~(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.~~ 23600
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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.~~ 23606
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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. 23612
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(5) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code. 23615
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(6) "DPIA Poverty student count" means: 23617

~~(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:~~ 23618
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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.~~ 23624
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(7) "Kindergarten ADM" means the number of students reported 23629

under section 3317.03 of the Revised Code as enrolled in 23630
kindergarten. 23631

(8) "Kindergarten through third grade ADM" means the amount 23632
calculated as follows: 23633

(a) Multiply the kindergarten ADM by the sum of one plus the 23634
all-day kindergarten percentage; 23635

(b) Add the number of students in grades one through three; 23636

(c) Subtract from the sum calculated under division (A)(6)(b) 23637
of this section the number of special education students in grades 23638
kindergarten through three. 23639

~~(9) "Statewide average teacher salary" means forty two 23640
thousand four hundred sixty nine dollars in fiscal year 2002, and 23641
forty three thousand six hundred fifty eight dollars in fiscal 23642
year 2003, which includes an amount for the value of fringe 23643
benefits. 23644~~

~~(10) "All-day kindergarten" means a kindergarten class that 23645
is in session five days per week for not less than the same number 23646
of clock hours each day as for pupils in grades one through six. 23647~~

~~(11)(10) "All-day kindergarten percentage" means the 23648
percentage of a district's actual total number of students 23649
enrolled in kindergarten who are enrolled in all-day kindergarten. 23650~~

~~(12)(11) "Buildings with the highest concentration of need" 23651
means+ 23652~~

~~(a) In fiscal years prior to fiscal year 2004, the school 23653
buildings in a district with percentages of students in grades 23654
kindergarten through three receiving assistance under Ohio works 23655
first at least as high as the district wide percentage of students 23656
receiving such assistance. 23657~~

~~(b) Beginning in fiscal year 2004, the school buildings in a 23658
district with percentages of students in grades kindergarten 23659~~

through three receiving family assistance at least as high as the 23660
district-wide percentage of students receiving family assistance. 23661

~~(e)~~ If, in any fiscal year, the information provided by the 23662
department of job and family services under section 3317.10 of the 23663
Revised Code is insufficient to determine the ~~Ohio works first or~~ 23664
family assistance percentage in each building, "buildings with the 23665
highest concentration of need" has the meaning given in rules that 23666
the department of education shall adopt. The rules shall base the 23667
definition of "buildings with the highest concentration of need" 23668
on family income of students in grades kindergarten through three 23669
in a manner that, to the extent possible with available data, 23670
approximates the intent of this division and division ~~(G)~~(K) of 23671
this section to designate buildings where the ~~Ohio works first or~~ 23672
family assistance percentage in those grades equals or exceeds the 23673
district-wide ~~Ohio works first or~~ family assistance percentage. 23674

(B) In addition to the amounts required to be paid to a 23675
school district under section 3317.022 of the Revised Code, a the 23676
department of education shall compute and distribute to each 23677
school district ~~shall receive~~ for poverty-based assistance the 23678
greater of the amount the district received in fiscal year ~~1998~~ 23679
2005 for disadvantaged pupil impact aid pursuant to division (B) 23680
of section 3317.023 of the Revised Code as it existed at that time 23681
Section 41.10 of Am. Sub. H.B. 95 of the 125th General Assembly, 23682
as amended, or the sum of the computations made under divisions 23683
(C) to ~~(E)~~(I) of this section. 23684

(C) A ~~supplemental payment that may be utilized~~ for measures 23685
related to safety and security and for remediation or similar 23686
programs, if the district's poverty index is greater than or equal 23687
to 0.25, calculated as follows: 23688

~~(1) If the DPIA index of the school district is greater than~~ 23689
~~or equal to thirty five hundredths, but less than one, an amount~~ 23690
~~obtained by multiplying the district's DPIA student count by two~~ 23691

hundred thirty dollars; 23692

~~(2) If the DPIA index of the school district is greater than 23693
or equal to one, an amount obtained by multiplying the DPIA index 23694
by two hundred thirty dollars and multiplying that product by the 23695
district's DPIA student count. 23696~~

~~Except as otherwise provided in division (F) of this section, 23697
beginning with the school year that starts July 1, 2002, each 23698
school district annually shall use at least twenty per cent of the 23699
funds calculated for the district under this division for 23700
intervention services required by section 3313.608 of the Revised 23701
Code. 23702~~

(1) If the district's poverty index is greater than or equal 23703
to 0.25, calculate the level-one amount as follows: 23704

(a) If the district's poverty index is greater than or equal 23705
to 0.25, but less than 1.25, determine the level-one amount per 23706
poverty student as follows: 23707

(0.005 X formula amount) + {(poverty index - 0.25) X [(0.02 X 23708
formula amount) - (0.005 X formula amount)]} 23709

(b) If the district's poverty index is greater than or equal 23710
to 1.25, the level-one amount per poverty student equals: 23711

0.02 X formula amount 23712

(c) Calculate the district's level-one payment as follows: 23713
level-one amount per poverty student determined under division 23714
(C)(1)(a) or (b) of this section X poverty student count X 23715
multiple 23716

Where "multiple" equals 0.50 in fiscal year 2007. 23717

(2) If the district's poverty index is greater than or equal 23718
to 1.25, determine the level-two amount, which shall be paid in 23719
addition to the level-one amount, as follows: 23720

(a) If the district's poverty index is greater than or equal 23721

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 23752
follows: 23753

$$\frac{43.478 + \{[(\text{DPIA index} - 0.6) / 1.9] \times 23.188\}}{50.0 + \{[(\text{poverty index} - 1.0) / 0.5] \times 16.667\}}$$
23754
23755

Where ~~43.478~~ 50.0 is the number of teachers per one thousand 23756
students at a student-teacher ratio of ~~twenty-three~~ twenty to one; 23757
~~1.9~~ 0.5 is the interval from a ~~DPIA~~ poverty index of ~~six-tenths~~ 23758
1.0 to a ~~DPIA~~ poverty index of ~~two and one-half~~ 1.5; and ~~23.188~~ 23759
16.667 is the difference in the number of teachers per one 23760
thousand students at a student-teacher ratio of fifteen to one and 23761
the number of teachers per one thousand students at a 23762
student-teacher ratio of ~~twenty-three~~ twenty to one. 23763

(c) If the ~~DPIA~~ poverty index of the school district is 23764
greater than or equal to ~~two and one-half~~ 1.5, the formula number 23765
of teachers is 66.667, which is the number of teachers per one 23766
thousand students at a student-teacher ratio of fifteen to one. 23767

(2) Multiply the formula number of teachers determined or 23768
calculated in division (E)(1) of this section by the kindergarten 23769
through third grade ADM for the district and divide that product 23770
by one thousand; 23771

(3) Calculate the number of new teachers as follows: 23772

(a) Multiply the kindergarten through third grade ADM by 23773
~~43.478~~ 50.0, which is the number of teachers per one thousand 23774
students at a student-teacher ratio of ~~twenty-three~~ twenty to one, 23775
and divide that product by one thousand; 23776

(b) Subtract the quotient obtained in division (E)(3)(a) of 23777
this section from the product in division (E)(2) of this section. 23778

(4) Multiply the greater of the difference obtained under 23779
division (E)(3) of this section or zero by the statewide average 23780
teachers salary. For this purpose, the "statewide average teacher 23781
salary" is \$56,465 in fiscal year 2006 and \$58,667 in fiscal year 23782

2007, which includes an amount for the value of fringe benefits. 23783

(F) A payment for services to limited English proficient 23784
students, if the district's poverty index is greater than or equal 23785
to 1.0 and the proportion of its students who are limited English 23786
proficient, as reported in 2003 on its school district report 23787
issued under section 3302.03 of the Revised Code for the 2002-2003 23788
school year, is greater than or equal to 2.0%, calculated as 23789
follows: 23790

(1) If the district's poverty index is greater than or equal 23791
to 1.0, but less than 2.0, determine the amount per limited 23792
English proficient student as follows: 23793

(0.12851 X formula amount) + {(poverty index - 1.0) X [(0.25702 X 23794
formula amount) - (0.12851 X formula amount)]} 23795

(2) If the district's poverty index is greater than or equal 23796
to 2.0, the amount per limited English proficient student equals: 23797

0.25702 X formula amount 23798

(3) Multiply the per student amount determined for the 23799
district under division (F)(1) or (2) of this section by the 23800
number of the district's limited English proficient students, 23801
times a multiple of 0.50 in fiscal year 2007. For purposes of this 23802
calculation in fiscal year 2007, the number of limited English 23803
proficient students for each district shall be the number 23804
determined by the department when it calculated the district's 23805
percentage of limited English students for its school district 23806
report issued in 2003 for the 2002-2003 school year. 23807

Not later than December 31, 2006, the department of education 23808
shall recommend to the general assembly and the director of budget 23809
and management a method of identifying the number of limited 23810
English proficient students for purposes of calculating payments 23811
under this division after fiscal year 2007. 23812

(G) A payment for professional development of teachers, if 23813

the district's poverty index is greater than or equal to 1.0, 23814
calculated as follows: 23815

(1) If the district's poverty index is greater than or equal 23816
to 1.0, but less than 2.0, determine the amount per teacher as 23817
follows: 23818

(poverty index - 1.0) X (0.044484 X formula amount) 23819

(2) If the district's poverty index is greater than or equal 23820
to 2.0, the amount per teacher equals: 23821

0.044484 X formula amount 23822

(3) Determine the number of teachers, as follows: 23823

(formula ADM/20) 23824

(4) Multiply the per teacher amount determined for the 23825
district under division (G)(1) or (2) of this section by the 23826
number of teachers determined under division (G)(3) of this 23827
section, times a multiple of 0.50 in fiscal year 2007. 23828

(H) A payment for dropout prevention, if the district is a 23829
big eight school district as defined in section 3314.02 of the 23830
Revised Code, calculated as follows: 23831

0.005 X formula amount X poverty index 23832
X formula ADM X multiple 23833

Where "multiple" equals 0.50 in fiscal year 2007. 23834

(I) An amount for community outreach, if the district is an 23835
urban school district as defined in section 3314.02 of the Revised 23836
Code, calculated as follows: 23837

(formula ADM/1,000) X community liaison 23838
personnel allowance X multiple 23839

Where: 23840

(1) "Community liaison personnel allowance" equals \$42,729 in 23841
fiscal year 2006 and \$44,396 in fiscal year 2007, which includes 23842
an amount for the value of fringe benefits. 23843

<u>(2) "Multiple" equals 0.50 in fiscal year 2007.</u>	23844
<u>(J) This division applies only to school districts whose DPIA poverty index is one 1.0 or greater.</u>	23845 23846
<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>	23847 23848 23849 23850 23851
<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 Each school district shall use its payment under division (F) of this section for one or more of the following purposes:</u>	23852 23853 23854 23855 23856
<u>(a) To hire teachers for limited English proficient students or other personnel to provide intervention services for those students;</u>	23857 23858 23859
<u>(b) To contract for intervention services for those students;</u>	23860
<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>	23861 23862 23863 23864
<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>	23865 23866 23867 23868 23869 23870 23871
<u>(a) Data-based decision making;</u>	23872
<u>(b) Standards-based curriculum models;</u>	23873

(c) Job-embedded professional development activities that are 23874
research-based, as defined in federal law. 23875

In addition, each district that elects to use its payment 23876
under division (G) of this section for such professional 23877
development shall use the payment only to implement programs 23878
identified on a list of eligible professional development programs 23879
provided by the department of education. The department annually 23880
shall provide the list to each district receiving a payment under 23881
division (G) of this section. However, a district may apply to the 23882
department for a waiver to implement an alternative professional 23883
development program in one or more of the areas specified in 23884
divisions (J)(3)(a) to (c) of this section. If the department 23885
grants the waiver, the district may use its payment under division 23886
(G) of this section to implement the alternative program. 23887

(4) Each big eight school district shall use its payment 23888
under division (H) of this section either for preventing at-risk 23889
students from dropping out of school or for the safety, security, 23890
or remediation activities described in divisions (J)(6)(a) and (b) 23891
of this section, or for a combination of those purposes. Not later 23892
than September 1, 2006, the department of education shall provide 23893
each big eight school district with a list of dropout prevention 23894
programs that it has determined are successful. The department 23895
subsequently may update the list. Each district that elects to use 23896
its payment under division (H) of this section for dropout 23897
prevention shall use the payment only to implement a dropout 23898
prevention program specified on the department's list. However, a 23899
district may apply to the department for a waiver to implement an 23900
alternative dropout prevention program. If the department grants 23901
the waiver, the district may use its payment under division (H) of 23902
this section to implement the alternative program. 23903

(5) Each urban school district that has a poverty index 23904
greater than or equal to 1.0 shall use its payment under division 23905

(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. 23906
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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: 23911
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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; 23919
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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. 23922
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~~Beginning with the school year that starts on July 1, 2002, 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. 23925
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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. 23929
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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 23933
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equal to 1.0 shall be utilized for the purpose of the third grade 23937
guarantee. The third grade guarantee consists of increasing the 23938
amount of instructional attention received per pupil in 23939
kindergarten through third grade, either by reducing the ratio of 23940
students to instructional personnel or by increasing the amount of 23941
instruction and curriculum-related activities by extending the 23942
length of the school day or the school year. 23943

School districts may implement a reduction of the ratio of 23944
students to instructional personnel through any or all of the 23945
following methods: 23946

(a) Reducing the number of students in a classroom taught by 23947
a single teacher; 23948

(b) Employing full-time educational aides or educational 23949
paraprofessionals issued a permit or license under section 23950
3319.088 of the Revised Code; 23951

(c) Instituting a team-teaching method that will result in a 23952
lower student-teacher ratio in a classroom. 23953

Districts may extend the school day either by increasing the 23954
amount of time allocated for each class, increasing the number of 23955
classes provided per day, offering optional academic-related 23956
after-school programs, providing curriculum-related extra 23957
curricular activities, or establishing tutoring or remedial 23958
services for students who have demonstrated an educational need. 23959
In accordance with section 3319.089 of the Revised Code, a 23960
district extending the school day pursuant to this division may 23961
utilize a participant of the work experience program who has a 23962
child enrolled in a public school in that district and who is 23963
fulfilling the work requirements of that program by volunteering 23964
or working in that public school. If the work experience program 23965
participant is compensated, the school district may use the funds 23966
distributed under this section for all or part of the 23967

compensation. 23968

Districts may extend the school year either through adding 23969
regular days of instruction to the school calendar or by providing 23970
summer programs. 23971

~~(G)~~(K) Each district ~~subject to division (F) of this section~~ 23972
shall not expend any funds received under division (E) of this 23973
section in any school buildings that are not buildings with the 23974
highest concentration of need, unless there is a ratio of 23975
instructional personnel to students of no more than fifteen to one 23976
in each kindergarten and first grade class in all buildings with 23977
the highest concentration of need. This division does not require 23978
that the funds used in buildings with the highest concentration of 23979
need be spent solely to reduce the ratio of instructional 23980
personnel to students in kindergarten and first grade. A school 23981
district may spend the funds in those buildings in any manner 23982
permitted by division ~~(F)~~(3)~~(J)~~(7) of this section, but may not 23983
spend the money in other buildings unless the fifteen-to-one ratio 23984
required by this division is attained. 23985

~~(H)~~(L)(1) By the first day of August of each fiscal year, 23986
each school district wishing to receive any funds under division 23987
(D) of this section shall submit to the department of education an 23988
estimate of its all-day kindergarten percentage. Each district 23989
shall update its estimate throughout the fiscal year in the form 23990
and manner required by the department, and the department shall 23991
adjust payments under this section to reflect the updates. 23992

(2) Annually by the end of December, the department of 23993
education, utilizing data from the information system established 23994
under section 3301.0714 of the Revised Code and after consultation 23995
with the legislative office of education oversight, shall 23996
determine for each school district subject to division ~~(F)~~(J) of 23997
this section whether in the preceding fiscal year the district's 23998

ratio of instructional personnel to students and its number of 23999
kindergarten students receiving all-day kindergarten appear 24000
reasonable, given the amounts of money the district received for 24001
that fiscal year pursuant to divisions (D) and (E) of this 24002
section. If the department is unable to verify from the data 24003
available that students are receiving reasonable amounts of 24004
instructional attention and all-day kindergarten, given the funds 24005
the district has received under this section and that class-size 24006
reduction funds are being used in school buildings with the 24007
highest concentration of need as required by division ~~(G)~~(K) of 24008
this section, the department shall conduct a more intensive 24009
investigation to ensure that funds have been expended as required 24010
by this section. The department shall file an annual report of its 24011
findings under this division with the chairpersons of the 24012
committees in each house of the general assembly dealing with 24013
finance and education. 24014

~~(I) Any (M)(1) Each~~ school district with a ~~DPIA~~ poverty index 24015
less than ~~one~~ 1.0 and a three-year average formula ADM exceeding 24016
seventeen thousand five hundred shall first utilize funds received 24017
under this section so that, when combined with other funds of the 24018
district, sufficient funds exist to provide all-day kindergarten 24019
to at least the number of children in the district's all-day 24020
kindergarten percentage. ~~Such a district~~ 24021

(2) Each school district with a poverty index less than 1.0 24022
that receives a payment under division (I) of this section shall 24023
use its payment under that division for one or both of the 24024
following purposes: 24025

(a) To hire or contract for community liaison officers, 24026
attendance or truant officers, or safety and security personnel; 24027

(b) To implement any of the safety, security, or remediation 24028
activities described in divisions (J)(6)(a) and (b) of this 24029
section. 24030

(3) Each school district to which division (M)(1) or (2) of this section applies shall expend at least seventy per cent of the remaining funds received under this section, and any other district with a DPIA poverty index less than one 1.0 shall expend at least seventy per cent of all funds received under this section, for any of the following purposes:

(1)(a) The purchase of technology for instructional purposes for remediation;

(2)(b) All-day kindergarten;

(3)(c) Reduction of class sizes in grades kindergarten through three, as described in division (J)(7) of this section;

(4)(d) Summer school remediation;

(5)(e) Dropout prevention programs approved by the department of education under division (J)(4) of this section;

(6)(f) Guaranteeing that all third graders are ready to progress to more advanced work;

(7)(g) Summer education and work programs;

(8)(h) Adolescent pregnancy programs;

(9)(i) Head start or preschool programs;

(10)(j) Reading improvement and remediation programs described by the department of education;

(11)(k) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;

(12)(l) Furnishing, free of charge, materials used in courses of instruction, except for the necessary textbooks or electronic textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code, to pupils living in families participating in Ohio works first in accordance with section

3313.642 of the Revised Code; 24060

~~(I)~~(M) School breakfasts provided pursuant to section 24061
3313.813 of the Revised Code. 24062

~~Each district shall submit to the department, in such format 24063
and at such time as the department shall specify, a report on the 24064
programs for which it expended funds under this division. 24065~~

~~(J)~~(N) If at any time the superintendent of public 24066
instruction determines that a school district receiving funds 24067
under division (D) of this section has enrolled less than the 24068
all-day kindergarten percentage reported for that fiscal year, the 24069
superintendent shall withhold from the funds otherwise due the 24070
district under this section a proportional amount as determined by 24071
the difference in the certified all-day kindergarten percentage 24072
and the percentage actually enrolled in all-day kindergarten. 24073

The superintendent shall also withhold an appropriate amount 24074
of funds otherwise due a district for any other misuse of funds 24075
not in accordance with this section. 24076

~~(K)~~(O)(1) A district may use a portion of the funds 24077
calculated for it under division (D) of this section to modify or 24078
purchase classroom space to provide all-day kindergarten, if both 24079
of the following conditions are met: 24080

(a) The district certifies to the department, in a manner 24081
acceptable to the department, that it has a shortage of space for 24082
providing all-day kindergarten. 24083

(b) The district provides all-day kindergarten to the number 24084
of children in the all-day kindergarten percentage it certified 24085
under this section. 24086

(2) A district may use a portion of the funds described in 24087
division ~~(F)~~~~(3)~~(J)(7) of this section to modify or purchase 24088
classroom space to enable it to further reduce class size in 24089

grades kindergarten through two with a goal of attaining class 24090
sizes of fifteen students per licensed teacher. To do so, the 24091
district must certify its need for additional space to the 24092
department, in a manner satisfactory to the department. 24093

Sec. 3317.0212. Division (B) of this section does not apply 24094
to a school district with a formula ADM of one hundred fifty or 24095
less. 24096

(A) As used in this section: 24097

(1) "Fundamental FY 1997 state aid" or "fundamental FY 1998 24098
state aid" for a district means the total amount of state money 24099
received by the district for the applicable fiscal year as 24100
reported on the department of education's form "SF-12," adjusted 24101
as follows: 24102

(a) Minus the amount for transportation; 24103

(b) Minus any amounts for approved preschool handicapped 24104
units; 24105

(c) Minus any additional amount attributable to the 24106
reappraisal guarantee of division (C) of section 3317.04 of the 24107
Revised Code; 24108

(d) Plus the amount deducted for payments to an educational 24109
service center; 24110

(e) Plus an estimated portion of the state money distributed 24111
in the applicable fiscal year to other school districts or 24112
educational service centers for approved units, other than 24113
preschool handicapped or gifted education units, attributable to 24114
the costs of providing services in those units to students 24115
entitled to attend school in the district; 24116

(f) Minus an estimated portion of the state money distributed 24117
to the school district in the applicable fiscal year for approved 24118
units, other than preschool handicapped units or gifted education 24119

units, attributable to the costs of providing services in those	24120
units to students entitled to attend school in another school	24121
district;	24122
(g) Plus any additional amount paid in the applicable fiscal	24123
year pursuant to the vocational education recomputation required	24124
by Section 45.12 of Amended Substitute House Bill No. 117 of the	24125
121st general assembly or former Section 50.22 of Amended	24126
Substitute House Bill No. 215 of the 122nd general assembly;	24127
(h) Plus any additional amount paid in the applicable fiscal	24128
year pursuant to the special education recomputation required by	24129
former division (I) of section 3317.023 of the Revised Code;	24130
(i) Plus any amount paid for equity aid in the applicable	24131
fiscal year under <u>former</u> section 3317.0213 of the Revised Code;	24132
(j) Plus any amount received for the applicable fiscal year	24133
pursuant to section 3317.027 of the Revised Code;	24134
(k) Plus any amount received for the applicable fiscal year	24135
resulting from a recomputation made under division (B) of section	24136
3317.022 of the Revised Code, as that section existed in the	24137
applicable fiscal year.	24138
(2) "State basic aid" for a district for any fiscal year	24139
after fiscal year 1999 means the sum of the following:	24140
(a) The amount computed for the district for base cost	24141
funding, special education funding, and vocational education	24142
funding under divisions (A), (C)(1) and (4), and (E) of section	24143
3317.022 and sections 3317.025 and 3317.027 of the Revised Code	24144
and DPFA aid under <u>the subsidy prescribed in</u> section 3317.029 of	24145
the Revised Code in the current fiscal year before any deduction	24146
or credit required by division (B), (D), (E), (F), (G), (H), (I),	24147
(J), (K), or (L), <u>(M), or (N)</u> of section 3317.023 or division	24148
(J) <u>(N)</u> of section 3317.029 of the Revised Code;	24149

(b) Any amounts for which the district is eligible pursuant 24150
to division (C) of section 3317.023, divisions (G), (P), and (R) 24151
of section 3317.024, and the supplemental unit allowance paid for 24152
gifted units under division (B) of section 3317.053 of the Revised 24153
Code+ 24154

~~(c) Any equity aid for which the district is eligible under 24155
section 3317.0213 of the Revised Code. 24156~~

(B) Upon request of the department of education, the 24157
treasurer of any school district or educational service center 24158
shall furnish data needed to calculate the amounts specified in 24159
divisions (A)(1)(e) and (f) of this section. The department shall 24160
compute and pay the state basic aid guarantee for each school 24161
district for the fiscal year as follows: 24162

(1) Subtract the amount of state basic aid from the amount of 24163
fundamental FY 1998 state aid. If a negative number, this 24164
computation shall be deemed to be zero. 24165

(2) Pay the district the following: 24166

(a) In any fiscal year prior to fiscal year 2007, any 24167
positive amount calculated under division (B)(1) of this section; 24168

(b) In fiscal year 2007, any positive amount calculated under 24169
division (B)(1) of this section times 0.50. 24170

(C)(1) The state basic aid guarantee in any fiscal year for a 24171
school district with a formula ADM of one hundred fifty or less 24172
shall be the greatest of the following amounts: 24173

(a) The district's state basic aid for the fiscal year; 24174

(b) The district's fundamental FY 1998 state aid; 24175

(c) The district's fundamental FY 1997 state aid. 24176

(2) If in any fiscal year the state basic aid for a school 24177
district with a formula ADM of one hundred fifty or less is less 24178

than the guarantee amount determined for the district under 24179
division (C)(1) of this section, the department of education shall 24180
pay the district the amount of the difference. 24181

Sec. 3317.0216. (A) As used in this section: 24182

(1) "Total taxes charged and payable for current expenses" 24183
means the sum of the taxes charged and payable as certified under 24184
division (A)(3)(a) of section 3317.021 of the Revised Code less 24185
any amounts reported under division (A)(3)(b) of that section, and 24186
the tax distribution for the preceding year under any school 24187
district income tax levied by the district pursuant to Chapter 24188
5748. of the Revised Code to the extent the revenue from the 24189
income tax is allocated or apportioned to current expenses. 24190

(2) "Charge-off amount" means ~~the product obtained by~~ 24191
~~multiplying~~ [two and three-tenths per cent multiplied by (the sum 24192
of recognized valuation and incentive district tax-exempt value)] 24193
plus (fifty per cent multiplied by payments in lieu of taxes). 24194

(3) Until fiscal year 2003, the "actual local share of 24195
special education, transportation, and vocational education 24196
funding" for any school district means the sum of the district's 24197
attributed local shares described in divisions (F)(1) to (3) of 24198
section 3317.022 of the Revised Code. Beginning in fiscal year 24199
2003, the "actual local share of special education, 24200
transportation, and vocational education funding" means that sum 24201
minus the amount of any excess cost supplement payment calculated 24202
for the district under division (F) of section 3317.022 of the 24203
Revised Code. 24204

(B) Upon receiving the certifications under section 3317.021 24205
of the Revised Code, the department of education shall determine 24206
for each city, local, and exempted village school district whether 24207
the district's charge-off amount is greater than the district's 24208

total taxes charged and payable for current expenses, and if it 24209
is, shall pay the district the amount of the difference. A payment 24210
shall not be made to any school district for which the computation 24211
under division (A) of section 3317.022 of the Revised Code equals 24212
zero. 24213

(C)(1) If a district's charge-off amount is equal to or 24214
greater than its total taxes charged and payable for current 24215
expenses, the department shall, in addition to the payment 24216
required under division (B) of this section, pay the district the 24217
amount of its actual local share of special education, 24218
transportation, and vocational education funding. 24219

(2) If a district's charge-off amount is less than its total 24220
taxes charged and payable for current expenses, the department 24221
shall pay the district any amount by which its actual local share 24222
of special education, transportation, and vocational education 24223
funding exceeds its total taxes charged and payable for current 24224
expenses minus its charge-off amount. 24225

(D) If a school district that received a payment under 24226
division (B) or (C) of this section in the prior fiscal year is 24227
ineligible for payment under those divisions in the current fiscal 24228
year, the department shall determine if the ineligibility is the 24229
result of a property tax or income tax levy approved by the 24230
district's voters to take effect in tax year 2005 or thereafter. 24231
If the department determines that is the case, and calculates that 24232
the levy causing the ineligibility exceeded by at least one mill 24233
the equivalent millage of the prior year's payment under divisions 24234
(B) and (C) of this section, the department shall make a payment 24235
to the district for the first three years that the district loses 24236
eligibility for payment under divisions (B) and (C) of this 24237
section, as follows: 24238

(1) In the first year of ineligibility, the department shall 24239

pay the district seventy-five per cent of the amount it last paid 24240
the district under divisions (B) and (C) of this section. 24241

(2) In the second year of ineligibility, the department shall 24242
pay the district fifty per cent of the amount it last paid the 24243
district under those divisions. 24244

(3) In the third year of ineligibility, the department shall 24245
pay the district twenty-five per cent of the amount it last paid 24246
the district under those divisions. 24247

(E) A district that receives payment under division (D) of 24248
this section and subsequently qualifies for payment under division 24249
(B) or (C) of this section is ineligible for future payments under 24250
division (D) of this section. 24251

Sec. 3317.0217. The department of education shall annually 24252
compute and pay state parity aid to school districts, as follows: 24253

(A) Calculate the local wealth per pupil of each school 24254
district, which equals the following sum: 24255

(1) Two-thirds times the quotient of (a) the district's 24256
recognized valuation divided by (b) its adjusted formula ADM; plus 24257

(2) One-third times the quotient of (a) the average of the 24258
total federal adjusted gross income of the school district's 24259
residents for the three years most recently reported under section 24260
3317.021 of the Revised Code divided by (b) its adjusted formula 24261
ADM. 24262

(B) Rank all school districts in order of local wealth per 24263
pupil, from the district with the lowest local wealth per pupil to 24264
the district with the highest local wealth per pupil. 24265

(C) Compute the per pupil state parity aid funding for each 24266
school district in accordance with the following formula: 24267

Payment percentage X (threshold local wealth 24268

per pupil - the district's local 24269

wealth per pupil) X 0.0095 24270

Where: 24271

(1) "Payment percentage," for purposes of division (C) of 24272
this section, equals 20% in fiscal year 2002, 40% in fiscal year 24273
2003, 58% in fiscal year 2004, 76% in fiscal year 2005, ~~and 100%~~ 24274
~~after fiscal year 2005~~ 80% in fiscal year 2006, and 85% in fiscal 24275
year 2007. 24276

(2) Nine and one-half mills (0.0095) is the general 24277
assembly's determination of the average number of effective 24278
operating mills that districts in the seventieth to ninetieth 24279
percentiles of valuations per pupil collected in fiscal year 2001 24280
above the revenues required to finance their attributed local 24281
shares of the calculated cost of an adequate education. This was 24282
determined by (a) adding the district revenues from operating 24283
property tax levies and income tax levies, (b) subtracting from 24284
that total the sum of (i) twenty-three mills times adjusted 24285
recognized valuation plus (ii) the attributed local shares of 24286
special education, transportation, and vocational education 24287
funding as described in divisions (F)(1) to (3) of section 24288
3317.022 of the Revised Code, and (c) converting the result to an 24289
effective operating property tax rate. 24290

(3) The "threshold local wealth per pupil" is the local 24291
wealth per pupil of the school district with the 24292
four-hundred-ninetieth lowest local wealth per pupil. 24293

If the result of the calculation for a school district under 24294
division (C) of this section is less than zero, the district's per 24295
pupil parity aid shall be zero. 24296

(D) Compute the per pupil alternative parity aid for each 24297
school district that has a combination of an income factor of 1.0 24298
or less, a ~~DPIA~~ poverty index of 1.0 or greater, and a fiscal year 24299

2006 cost-of-doing-business factor of 1.0375 or greater, in 24300
accordance with the following formula: 24301

Payment percentage X \$60,000 X 24302
(1 - income factor) X 4/15 X 0.023 24303

Where: 24304

(1) "DPIA Poverty index" has the same meaning as in section 24305
3317.029 of the Revised Code. 24306

(2) "Payment percentage," for purposes of division (D) of 24307
this section, equals 50% in fiscal year 2002 and 100% after fiscal 24308
year 2002. 24309

(E) Pay each district that has a combination of an income 24310
factor of 1.0 or less, a DPIA poverty index of 1.0 or greater, and 24311
a fiscal year 2006 cost-of-doing-business factor of 1.0375 or 24312
greater, the greater of the following: 24313

(1) The product of the district's per pupil parity aid 24314
calculated under division (C) of this section times its formula 24315
ADM; 24316

(2) The product of its per pupil alternative parity aid 24317
calculated under division (D) of this section times its formula 24318
ADM. 24319

(F) Pay every other district the product of its per pupil 24320
parity aid calculated under division (C) of this section times its 24321
formula ADM. 24322

Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and 24323
(C) of this section, any student enrolled in kindergarten more 24324
than half time shall be reported as one-half student under this 24325
section. 24326

(A) The superintendent of each city and exempted village 24327
school district and of each educational service center shall, for 24328
the schools under the superintendent's supervision, certify to the 24329

state board of education on or before the fifteenth day of October 24330
in each year for the first full school week in October the formula 24331
ADM, ~~which~~. Beginning in fiscal year 2006, each superintendent 24332
also shall certify to the state board, for the schools under the 24333
superintendent's supervision, the formula ADM for the week 24334
established for regular administration of the achievement tests 24335
prescribed under divisions (A)(1)(b) to (f) of section 3301.0710 24336
of the Revised Code. Each superintendent shall certify the second 24337
annual formula ADM no later than two weeks after the regular test 24338
administration. The formula ADM shall consist of the average daily 24339
membership during such week of the sum of the following: 24340

(1) On an FTE basis, the number of students in grades 24341
kindergarten through twelve receiving any educational services 24342
from the district, except that the following categories of 24343
students shall not be included in the determination: 24344

(a) Students enrolled in adult education classes; 24345

(b) Adjacent or other district students enrolled in the 24346
district under an open enrollment policy pursuant to section 24347
3313.98 of the Revised Code; 24348

(c) Students receiving services in the district pursuant to a 24349
compact, cooperative education agreement, or a contract, but who 24350
are entitled to attend school in another district pursuant to 24351
section 3313.64 or 3313.65 of the Revised Code; 24352

(d) Students for whom tuition is payable pursuant to sections 24353
3317.081 and 3323.141 of the Revised Code. 24354

(2) On an FTE basis, the number of students entitled to 24355
attend school in the district pursuant to section 3313.64 or 24356
3313.65 of the Revised Code, but receiving educational services in 24357
grades kindergarten through twelve from one or more of the 24358
following entities: 24359

(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 24390
district pursuant to section 3313.64 or 3313.65 of the Revised 24391
Code who are placed with a county MR/DD board, minus the number of 24392
such children placed with a county MR/DD board in fiscal year 24393
1998. If this calculation produces a negative number, the number 24394
reported under division (A)(4) of this section shall be zero. 24395

(B) To enable the department of education to obtain the data 24396
needed to complete the calculation of payments pursuant to this 24397
chapter, in addition to the formula ADM, each superintendent shall 24398
report separately the following student counts for the same week 24399
for which formula ADM is certified: 24400

(1) The total average daily membership in regular day classes 24401
included in the report under division (A)(1) or (2) of this 24402
section for kindergarten, and each of grades one through twelve in 24403
schools under the superintendent's supervision; 24404

(2) The number of all handicapped preschool children enrolled 24405
as of the first day of December in classes in the district that 24406
are eligible for approval under division (B) of section 3317.05 of 24407
the Revised Code and the number of those classes, which shall be 24408
reported not later than the fifteenth day of December, in 24409
accordance with rules adopted under that section; 24410

(3) The number of children entitled to attend school in the 24411
district pursuant to section 3313.64 or 3313.65 of the Revised 24412
Code who are participating: 24413

(a) Participating in a pilot project scholarship program 24414
established under sections 3313.974 to 3313.979 of the Revised 24415
Code as described in division (I)(2)(a) or (b) of this section, ~~7~~ 24416
~~are enrolled;~~ 24417

(b) Enrolled in a college under Chapter 3365. of the Revised 24418
Code, except when the student is enrolled in the college while 24419
also enrolled in a community school pursuant to Chapter 3314. of 24420

the Revised Code, are enrolled;	24421
<u>(c) Enrolled</u> in an adjacent or other school district under	24422
section 3313.98 of the Revised Code, are enrolled;	24423
<u>(d) Enrolled</u> in a community school established under Chapter	24424
3314. of the Revised Code <u>that is not an internet- or</u>	24425
<u>computer-based community school as defined in section 3314.02 of</u>	24426
<u>the Revised Code</u> , including any participation in a college	24427
pursuant to Chapter 3365. of the Revised Code while enrolled in	24428
such community school, or are participating;	24429
<u>(e) Enrolled in an internet- or computer-based community</u>	24430
<u>school, as defined in section 3314.02 of the Revised Code,</u>	24431
<u>including any participation in a college pursuant to Chapter 3365.</u>	24432
<u>of the Revised Code while enrolled in the school;</u>	24433
<u>(f) Enrolled in a registered private school with a</u>	24434
<u>scholarship paid under section 3310.08 of the Revised Code;</u>	24435
<u>(g) Participating</u> in a program operated by a county MR/DD	24436
board or a state institution;	24437
(4) The number of pupils enrolled in joint vocational	24438
schools;	24439
(5) The average daily membership of handicapped children	24440
reported under division (A)(1) or (2) <u>or (B)(3)(e)</u> of this section	24441
receiving special education services for the category one handicap	24442
described in division (A) of section 3317.013 of the Revised Code;	24443
(6) The average daily membership of handicapped children	24444
reported under division (A)(1) or (2) <u>or (B)(3)(e)</u> of this section	24445
receiving special education services for category two handicaps	24446
described in division (B) of section 3317.013 of the Revised Code;	24447
(7) The average daily membership of handicapped children	24448
reported under division (A)(1) or (2) <u>or (B)(3)(e)</u> of this section	24449
receiving special education services for category three handicaps	24450

described in division (C) of section 3317.013 of the Revised Code;	24451
(8) The average daily membership of handicapped children	24452
reported under division (A)(1) or (2) <u>or (B)(3)(e)</u> of this section	24453
receiving special education services for category four handicaps	24454
described in division (D) of section 3317.013 of the Revised Code;	24455
(9) The average daily membership of handicapped children	24456
reported under division (A)(1) or (2) <u>or (B)(3)(e)</u> of this section	24457
receiving special education services for the category five	24458
handicap described in division (E) of section 3317.013 of the	24459
Revised Code;	24460
(10) The average daily membership of handicapped children	24461
reported under division (A)(1) or (2) <u>or (B)(3)(e)</u> of this section	24462
receiving special education services for category six handicaps	24463
described in division (F) of section 3317.013 of the Revised Code;	24464
(11) The average daily membership of pupils reported under	24465
division (A)(1) or (2) of this section enrolled in category one	24466
vocational education programs or classes, described in division	24467
(A) of section 3317.014 of the Revised Code, operated by the	24468
school district or by another district, other than a joint	24469
vocational school district, or by an educational service center;	24470
(12) The average daily membership of pupils reported under	24471
division (A)(1) or (2) of this section enrolled in category two	24472
vocational education programs or services, described in division	24473
(B) of section 3317.014 of the Revised Code, operated by the	24474
school district or another school district, other than a joint	24475
vocational school district, or by an educational service center;	24476
(13) The average number of children transported by the school	24477
district on board-owned or contractor-owned and -operated buses,	24478
reported in accordance with rules adopted by the department of	24479
education;	24480
(14)(a) The number of children, other than handicapped	24481

preschool children, the district placed with a county MR/DD board	24482
in fiscal year 1998;	24483
(b) The number of handicapped children, other than	24484
handicapped preschool children, placed with a county MR/DD board	24485
in the current fiscal year to receive special education services	24486
for the category one handicap described in division (A) of section	24487
3317.013 of the Revised Code;	24488
(c) The number of handicapped children, other than	24489
handicapped preschool children, placed with a county MR/DD board	24490
in the current fiscal year to receive special education services	24491
for category two handicaps described in division (B) of section	24492
3317.013 of the Revised Code;	24493
(d) The number of handicapped children, other than	24494
handicapped preschool children, placed with a county MR/DD board	24495
in the current fiscal year to receive special education services	24496
for category three handicaps described in division (C) of section	24497
3317.013 of the Revised Code;	24498
(e) The number of handicapped children, other than	24499
handicapped preschool children, placed with a county MR/DD board	24500
in the current fiscal year to receive special education services	24501
for category four handicaps described in division (D) of section	24502
3317.013 of the Revised Code;	24503
(f) The number of handicapped children, other than	24504
handicapped preschool children, placed with a county MR/DD board	24505
in the current fiscal year to receive special education services	24506
for the category five handicap described in division (E) of	24507
section 3317.013 of the Revised Code;	24508
(g) The number of handicapped children, other than	24509
handicapped preschool children, placed with a county MR/DD board	24510
in the current fiscal year to receive special education services	24511
for category six handicaps described in division (F) of section	24512

3317.013 of the Revised Code. 24513

(C)(1) Except as otherwise provided in this section for 24514
kindergarten students, the average daily membership in divisions 24515
(B)(1) to (12) of this section shall be based upon the number of 24516
full-time equivalent students. The state board of education shall 24517
adopt rules defining full-time equivalent students and for 24518
determining the average daily membership therefrom for the 24519
purposes of divisions (A), (B), and (D) of this section. 24520

(2) A student enrolled in a community school established 24521
under Chapter 3314. of the Revised Code shall be counted in the 24522
formula ADM and, if applicable, the category one, two, three, 24523
four, five, or six special education ADM of the school district in 24524
which the student is entitled to attend school under section 24525
3313.64 or 3313.65 of the Revised Code for the same proportion of 24526
the school year that the student is counted in the enrollment of 24527
the community school for purposes of section 3314.08 of the 24528
Revised Code. 24529

(3) No child shall be counted as more than a total of one 24530
child in the sum of the average daily memberships of a school 24531
district under division (A), divisions (B)(1) to (12), or division 24532
(D) of this section, except as follows: 24533

(a) A child with a handicap described in section 3317.013 of 24534
the Revised Code may be counted both in formula ADM and in 24535
category one, two, three, four, five, or six special education ADM 24536
and, if applicable, in category one or two vocational education 24537
ADM. As provided in division (C) of section 3317.02 of the Revised 24538
Code, such a child shall be counted in category one, two, three, 24539
four, five, or six special education ADM in the same proportion 24540
that the child is counted in formula ADM. 24541

(b) A child enrolled in vocational education programs or 24542
classes described in section 3317.014 of the Revised Code may be 24543

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:	24576
(a) Students enrolled in adult education classes;	24577
(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;	24578 24579 24580
(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;	24581 24582 24583 24584 24585
(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.	24586 24587
(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</u> <u>formula ADM is certified</u> :	24588 24589 24590 24591 24592 24593 24594
(a) Students enrolled in each grade included in the joint vocational district schools;	24595 24596
(b) Handicapped children receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;	24597 24598 24599
(c) Handicapped children receiving special education services for the category two handicaps described in division (B) of section 3317.013 of the Revised Code;	24600 24601 24602
(d) Handicapped children receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;	24603 24604 24605

(e) Handicapped children receiving special education services	24606
for category four handicaps described in division (D) of section	24607
3317.013 of the Revised Code;	24608
(f) Handicapped children receiving special education services	24609
for the category five handicap described in division (E) of	24610
section 3317.013 of the Revised Code;	24611
(g) Handicapped children receiving special education services	24612
for category six handicaps described in division (F) of section	24613
3317.013 of the Revised Code;	24614
(h) Students receiving category one vocational education	24615
services, described in division (A) of section 3317.014 of the	24616
Revised Code;	24617
(i) Students receiving category two vocational education	24618
services, described in division (B) of section 3317.014 of the	24619
Revised Code.	24620
The superintendent of each joint vocational school district	24621
shall also indicate the city, local, or exempted village school	24622
district in which each joint vocational district pupil is entitled	24623
to attend school pursuant to section 3313.64 or 3313.65 of the	24624
Revised Code.	24625
(E) In each school of each city, local, exempted village,	24626
joint vocational, and cooperative education school district there	24627
shall be maintained a record of school membership, which record	24628
shall accurately show, for each day the school is in session, the	24629
actual membership enrolled in regular day classes. For the purpose	24630
of determining average daily membership, the membership figure of	24631
any school shall not include any pupils except those pupils	24632
described by division (A) of this section. The record of	24633
membership for each school shall be maintained in such manner that	24634
no pupil shall be counted as in membership prior to the actual	24635
date of entry in the school and also in such manner that where for	24636

any cause a pupil permanently withdraws from the school that pupil 24637
shall not be counted as in membership from and after the date of 24638
such withdrawal. There shall not be included in the membership of 24639
any school any of the following: 24640

(1) Any pupil who has graduated from the twelfth grade of a 24641
public high school; 24642

(2) Any pupil who is not a resident of the state; 24643

(3) Any pupil who was enrolled in the schools of the district 24644
during the previous school year when tests were administered under 24645
section 3301.0711 of the Revised Code but did not take one or more 24646
of the tests required by that section and was not excused pursuant 24647
to division (C)(1) or (3) of that section; 24648

(4) Any pupil who has attained the age of twenty-two years, 24649
except for veterans of the armed services whose attendance was 24650
interrupted before completing the recognized twelve-year course of 24651
the public schools by reason of induction or enlistment in the 24652
armed forces and who apply for reenrollment in the public school 24653
system of their residence not later than four years after 24654
termination of war or their honorable discharge. 24655

If, however, any veteran described by division (E)(4) of this 24656
section elects to enroll in special courses organized for veterans 24657
for whom tuition is paid under the provisions of federal laws, or 24658
otherwise, that veteran shall not be included in average daily 24659
membership. 24660

Notwithstanding division (E)(3) of this section, the 24661
membership of any school may include a pupil who did not take a 24662
test required by section 3301.0711 of the Revised Code if the 24663
superintendent of public instruction grants a waiver from the 24664
requirement to take the test to the specific pupil. The 24665
superintendent may grant such a waiver only for good cause in 24666
accordance with rules adopted by the state board of education. 24667

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 24700
eligible for approval under division (B) of section 3317.05 of the 24701
Revised Code exceeds the number of units that have been approved 24702
for the year under that division, the superintendent of schools of 24703
any city, exempted village, or cooperative education school 24704
district or educational service center shall make the 24705
certifications required by this section for that day. If the 24706
department determines additional units can be approved for the 24707
fiscal year within any limitations set forth in the acts 24708
appropriating moneys for the funding of such units, the department 24709
shall approve additional units for the fiscal year on the basis of 24710
such average daily membership. For each unit so approved, the 24711
department shall pay an amount computed in the manner prescribed 24712
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 24713
Code. 24714

(3) If a student attending a community school under Chapter 24715
3314. of the Revised Code is not included in the formula ADM 24716
~~certified for the first full school week of October~~ for the school 24717
district in which the student is entitled to attend school under 24718
section 3313.64 or 3313.65 of the Revised Code, the department of 24719
education shall adjust the formula ADM of that school district to 24720
include the community school student in accordance with division 24721
(C)(2) of this section, and shall recalculate the school 24722
district's payments under this chapter for the entire fiscal year 24723
on the basis of that adjusted formula ADM. This requirement 24724
applies regardless of whether the student was enrolled, as defined 24725
in division (E) of this section, in the community school during 24726
the first full school week in October. 24727

(G)(1)(a) The superintendent of an institution operating a 24728
special education program pursuant to section 3323.091 of the 24729
Revised Code shall, for the programs under such superintendent's 24730
supervision, certify to the state board of education ~~the, in the~~ 24731

manner prescribed by the superintendent of public instruction, 24732
both of the following: 24733

(i) The average daily membership of all handicapped children 24734
other than handicapped preschool children receiving services at 24735
the institution for each category of handicap described in 24736
divisions (A) to (F) of section 3317.013 of the Revised Code; 24737

(ii) The average daily membership of all handicapped 24738
preschool children in classes or programs approved annually by the 24739
department of education, in the manner prescribed by the 24740
superintendent of public instruction for unit funding under 24741
section 3317.05 of the Revised Code. 24742

(b) The superintendent of an institution with vocational 24743
education units approved under division (A) of section 3317.05 of 24744
the Revised Code shall, for the units under the superintendent's 24745
supervision, certify to the state board of education the average 24746
daily membership in those units, in the manner prescribed by the 24747
superintendent of public instruction. 24748

(2) The superintendent of each county MR/DD board that 24749
maintains special education classes under section 3317.20 of the 24750
Revised Code or units approved pursuant to section 3317.05 of the 24751
Revised Code shall do both of the following: 24752

(a) Certify to the state board, in the manner prescribed by 24753
the board, the average daily membership in classes under section 24754
3317.20 of the Revised Code for each school district that has 24755
placed children in the classes; 24756

(b) Certify to the state board, in the manner prescribed by 24757
the board, the number of all handicapped preschool children 24758
enrolled as of the first day of December in classes eligible for 24759
approval under division (B) of section 3317.05 of the Revised 24760
Code, and the number of those classes. 24761

(3)(a) If on the first school day of April the number of 24762

classes or units maintained for handicapped preschool children by 24763
the county MR/DD board that are eligible for approval under 24764
division (B) of section 3317.05 of the Revised Code is greater 24765
than the number of units approved for the year under that 24766
division, the superintendent shall make the certification required 24767
by this section for that day. 24768

(b) If the department determines that additional classes or 24769
units can be approved for the fiscal year within any limitations 24770
set forth in the acts appropriating moneys for the funding of the 24771
classes and units described in division (G)(3)(a) of this section, 24772
the department shall approve and fund additional units for the 24773
fiscal year on the basis of such average daily membership. For 24774
each unit so approved, the department shall pay an amount computed 24775
in the manner prescribed in sections 3317.052 and 3317.053 of the 24776
Revised Code. 24777

(H) Except as provided in division (I) of this section, when 24778
any city, local, or exempted village school district provides 24779
instruction for a nonresident pupil whose attendance is 24780
unauthorized attendance as defined in section 3327.06 of the 24781
Revised Code, that pupil's membership shall not be included in 24782
that district's membership figure used in the calculation of that 24783
district's formula ADM or included in the determination of any 24784
unit approved for the district under section 3317.05 of the 24785
Revised Code. The reporting official shall report separately the 24786
average daily membership of all pupils whose attendance in the 24787
district is unauthorized attendance, and the membership of each 24788
such pupil shall be credited to the school district in which the 24789
pupil is entitled to attend school under division (B) of section 24790
3313.64 or section 3313.65 of the Revised Code as determined by 24791
the department of education. 24792

(I)(1) A city, local, exempted village, or joint vocational 24793
school district admitting a scholarship student of a pilot project 24794

district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily membership. 24795
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(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily membership: 24798
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(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code; 24803
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(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend any such alternative school. 24806
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(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. 24809
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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 24817
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consecutive hours the school is open for instruction. 24825

(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. 24826
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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. 24830
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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. 24837
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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. 24841
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(B) For the purpose of calculating payments under sections 24855
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 24856
department shall determine, based on information certified under 24857
section 3317.03 of the Revised Code, the following by the last day 24858
of January of each year for each educational service center, for 24859
each school district, including each cooperative education school 24860
district, for each institution eligible for payment under section 24861
3323.091 of the Revised Code, and for each county MR/DD board: the 24862
number of classes operated by the school district, service center, 24863
institution, or county MR/DD board for handicapped preschool 24864
children, or fraction thereof, including in the case of a district 24865
or service center that is a funding agent, classes taught by a 24866
licensed teacher employed by that district or service center under 24867
section 3313.841 of the Revised Code, approved annually by the 24868
department on the basis of standards and rules adopted by the 24869
state board. 24870

(C) For the purpose of calculating payments under sections 24871
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 24872
department shall determine, based on information certified under 24873
section 3317.03 of the Revised Code, the following by the last day 24874
of January of each year for each school district, including each 24875
cooperative education school district, for each institution 24876
eligible for payment under section 3323.091 of the Revised Code, 24877
and for each county MR/DD board: the number of preschool 24878
handicapped related services units for child study, occupational, 24879
physical, or speech and hearing therapy, special education 24880
supervisors, and special education coordinators approved annually 24881
by the department on the basis of standards and rules adopted by 24882
the state board. 24883

~~(D) For the purpose of calculating payments under sections 24884
3317.052 and 3317.053 of the Revised Code, the department shall 24885
determine, based on information certified under section 3317.03 of 24886~~

~~the Revised Code, the following by the last day of January of each year for each institution eligible for payment under section 3323.091 of the Revised Code:~~

~~(1) The number of classes operated by an institution for handicapped children other than handicapped preschool children, or fraction thereof, approved annually by the department on the basis of standards and rules adopted by the state board;~~

~~(2) The number of related services units for children other than handicapped preschool children for child study, occupational, physical, or speech and hearing therapy, special education supervisors, and special education coordinators approved annually by the department on the basis of standards and rules adopted by the state board.~~

~~(E) All of the arithmetical calculations made under this section shall be carried to the second decimal place. The total number of units for school districts, service centers, and institutions approved annually under this section shall not exceed the number of units included in the estimate of cost for these units and appropriations made for them by the general assembly.~~

~~In the case of units described in division (D)(1) of this section operated by institutions eligible for payment under section 3323.091 of the Revised Code, the department shall approve only units for persons who are under age twenty two on the first day of the academic year, but not less than six years of age on the thirtieth day of September of that year, except that such a unit may include one or more children who are under six years of age on the thirtieth day of September if such children have been admitted to the unit pursuant to rules of the state board. In the case of handicapped preschool units described in division (B) of this section, the department shall approve only preschool units for children who are under age six but not less than age three on the ~~first~~ thirtieth day of ~~December~~ September of the academic~~

year, or on the first day of August of the academic year if the 24919
school district in which the child is enrolled has adopted a 24920
resolution under division (A)(3) of section 3321.01 of the Revised 24921
Code, except that such a unit may include one or more children who 24922
are under age three or are age six or over on the ~~first day of~~ 24923
~~December~~ applicable date, as reported under division (B)(2) or 24924
(G)(2)(b) of section 3317.03 of the Revised Code, if such children 24925
have been admitted to the unit pursuant to rules of the state 24926
board. The number of units for county MR/DD boards and 24927
institutions eligible for payment under section 3323.091 of the 24928
Revised Code approved under this section shall not exceed the 24929
number that can be funded with appropriations made for such 24930
purposes by the general assembly. 24931

No unit shall be approved under divisions (B) ~~to (D)~~ and (C) 24932
of this section unless a plan has been submitted and approved 24933
under Chapter 3323. of the Revised Code. 24934

~~(F)~~(E) The department shall approve units or fractions 24935
thereof for gifted children on the basis of standards and rules 24936
adopted by the state board. 24937

Sec. 3317.052. As used in this section, "institution" means 24938
an institution operated by a department specified in division (A) 24939
of section 3323.091 of the Revised Code. 24940

(A)(1) The department of education shall pay each school 24941
district, educational service center, institution eligible for 24942
payment under section 3323.091 of the Revised Code, or county 24943
MR/DD board an amount for the total of all classroom units for 24944
handicapped preschool children approved under division (B) of 24945
section 3317.05 of the Revised Code. For each unit, the amount 24946
shall be the sum of the minimum salary for the teacher of the 24947
unit, calculated on the basis of the teacher's training level and 24948
years of experience pursuant to the salary schedule prescribed in 24949

the version of section 3317.13 of the Revised Code in effect prior 24950
to ~~the effective date of this amendment~~ July 1, 2001, plus fifteen 24951
per cent of that minimum salary amount, and eight thousand 24952
twenty-three dollars. 24953

(2) The department shall pay each school district, 24954
educational service center, institution eligible for payment under 24955
section 3323.091 of the Revised Code, or county MR/DD board an 24956
amount for the total of all related services units for handicapped 24957
preschool children approved under division (C) of section 3317.05 24958
of the Revised Code. For each such unit, the amount shall be the 24959
sum of the minimum salary for the teacher of the unit calculated 24960
on the basis of the teacher's training level and years of 24961
experience pursuant to the salary schedule prescribed in the 24962
version of section 3317.13 of the Revised Code in effect prior to 24963
~~the effective date of this amendment~~ July 1, 2001, fifteen per 24964
cent of that minimum salary amount, and two thousand one hundred 24965
thirty-two dollars. 24966

(B) If a school district, educational service center, or 24967
county MR/DD board has had additional handicapped preschool units 24968
approved for the year under division (F)(2) or (G)(3) of section 24969
3317.03 of the Revised Code, the district, educational service 24970
center, or board shall receive an additional amount during the 24971
last half of the fiscal year. For each district, center, or board, 24972
the additional amount for each unit shall equal fifty per cent of 24973
the amounts computed for the unit in the manner prescribed by 24974
division (A) of this section and division (C) of section 3317.053 24975
of the Revised Code. 24976

~~(C)(1) The department shall pay each institution eligible for 24977
payment under section 3323.091 of the Revised Code or county MR/DD 24978
board an amount for the total of all special education units 24979
approved under division (D)(1) of section 3317.05 of the Revised 24980
Code. The amount for each unit shall be the sum of the minimum 24981~~

~~salary for the teacher of the unit, calculated on the basis of the 24982
teacher's training level and years of experience pursuant to the 24983
salary schedule prescribed in the version of section 3317.13 of 24984
the Revised Code in effect prior to the effective date of this 24985
amendment, plus fifteen per cent of that minimum salary amount, 24986
and eight thousand twenty three dollars. 24987~~

~~(2) The department shall pay each institution eligible for 24988
payment under section 3323.091 of the Revised Code an amount for 24989
the total of all related services units approved under division 24990
(D)(2) of section 3317.05 of the Revised Code. The amount for each 24991
unit shall be the sum of the minimum salary for the teacher of the 24992
unit, calculated on the basis of the teacher's training level and 24993
years of experience pursuant to the salary schedule prescribed in 24994
the version of section 3317.13 of the Revised Code in effect prior 24995
to the effective date of this amendment, plus fifteen per cent of 24996
that minimum salary amount, and two thousand one hundred 24997
thirty two dollars. 24998~~

~~(D) The department shall pay each institution approved for 24999
vocational education units under division (A) of section 3317.05 25000
of the Revised Code an amount for the total of all the units 25001
approved under that division. The amount for each unit shall be 25002
the sum of the minimum salary for the teacher of the unit, 25003
calculated on the basis of the teacher's training level and years 25004
of experience pursuant to the salary schedule prescribed in the 25005
version of section 3317.13 of the Revised Code in effect prior to 25006
~~the effective date of this amendment~~ July 1, 2001, plus fifteen 25007
per cent of that minimum salary amount, and nine thousand five 25008
hundred ten dollars. 25009~~

Sec. 3317.053. (A) As used in this section: 25010

(1) "State share percentage" has the same meaning as in 25011
section 3317.022 of the Revised Code. 25012

(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 of the Revised Code	\$8,334
Division (C) of that section	\$3,234
Division (F) (E) of that section	\$5,550

(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 of the Revised Code	\$7,799
Division (C) of that section	\$2,966
Division (F) (E) of that section	\$5,251

(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 25074
following independent and fully severable purposes: 25075

(A) To purchase such secular textbooks or electronic 25076
textbooks as have been approved by the superintendent of public 25077
instruction for use in public schools in the state and to loan 25078
such textbooks or electronic textbooks to pupils attending 25079
nonpublic schools within the district or to their parents and to 25080
hire clerical personnel to administer such lending program. Such 25081
loans shall be based upon individual requests submitted by such 25082
nonpublic school pupils or parents. Such requests shall be 25083
submitted to the school district in which the nonpublic school is 25084
located. Such individual requests for the loan of textbooks or 25085
electronic textbooks shall, for administrative convenience, be 25086
submitted by the nonpublic school pupil or the pupil's parent to 25087
the nonpublic school, which shall prepare and submit collective 25088
summaries of the individual requests to the school district. As 25089
used in this section: 25090

(1) "Textbook" means any book or book substitute that a pupil 25091
uses as a consumable or nonconsumable text, text substitute, or 25092
text supplement in a particular class or program in the school the 25093
pupil regularly attends. 25094

(2) "Electronic textbook" means computer software, 25095
interactive videodisc, magnetic media, CD-ROM, computer 25096
courseware, local and remote computer assisted instruction, 25097
on-line service, electronic medium, or other means of conveying 25098
information to the student or otherwise contributing to the 25099
learning process through electronic means. 25100

(B) To provide speech and hearing diagnostic services to 25101
pupils attending nonpublic schools within the district. Such 25102
service shall be provided in the nonpublic school attended by the 25103
pupil receiving the service. 25104

(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.

(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.

(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.

(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.

(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

is located. 25136

(H) To supply for use by pupils attending nonpublic schools 25137
within the district such standardized tests and scoring services 25138
as are in use in the public schools of the state; 25139

(I) To provide programs for children who attend nonpublic 25140
schools within the district and are handicapped children as 25141
defined in division (A) of section 3323.01 of the Revised Code or 25142
gifted children. Such programs shall be provided in the public 25143
school, in nonpublic schools, in public centers, or in mobile 25144
units located on or off of the nonpublic premises. If such 25145
programs are provided in the public school or in public centers, 25146
transportation to and from such facilities shall be provided by 25147
the school district in which the nonpublic school is located. 25148

(J) To hire clerical personnel to assist in the 25149
administration of programs pursuant to divisions (B), (C), (D), 25150
(E), (F), (G), and (I) of this section and to hire supervisory 25151
personnel to supervise the providing of services and textbooks 25152
pursuant to this section. 25153

(K) To purchase or lease any secular, neutral, and 25154
nonideological computer software (including site-licensing), 25155
prerecorded video laserdiscs, digital video on demand (DVD), 25156
compact discs, and video cassette cartridges, wide area 25157
connectivity and related technology as it relates to internet 25158
access, mathematics or science equipment and materials, 25159
instructional materials, and school library materials that are in 25160
general use in the public schools of the state and loan such items 25161
to pupils attending nonpublic schools within the district or to 25162
their parents, and to hire clerical personnel to administer the 25163
lending program. Only such items that are incapable of diversion 25164
to religious use and that are susceptible of loan to individual 25165
pupils and are furnished for the use of individual pupils shall be 25166

purchased and loaned under this division. As used in this section, 25167
"instructional materials" means prepared learning materials that 25168
are secular, neutral, and nonideological in character and are of 25169
benefit to the instruction of school children, and may include 25170
educational resources and services developed by the agency 25171
designated by the governor to assume the functions of the Ohio 25172
schoolnet commission. 25173

(L) To purchase or lease instructional equipment, including 25174
computer hardware and related equipment in general use in the 25175
public schools of the state, for use by pupils attending nonpublic 25176
schools within the district and to loan such items to pupils 25177
attending nonpublic schools within the district or to their 25178
parents, and to hire clerical personnel to administer the lending 25179
program. 25180

(M) To purchase mobile units to be used for the provision of 25181
services pursuant to divisions (E), (F), (G), and (I) of this 25182
section and to pay for necessary repairs and operating costs 25183
associated with these units. 25184

Clerical and supervisory personnel hired pursuant to division 25185
(J) of this section shall perform their services in the public 25186
schools, in nonpublic schools, public centers, or mobile units 25187
where the services are provided to the nonpublic school pupil, 25188
except that such personnel may accompany pupils to and from the 25189
service sites when necessary to ensure the safety of the children 25190
receiving the services. 25191

All services provided pursuant to this section may be 25192
provided under contract with educational service centers, the 25193
department of health, city or general health districts, or private 25194
agencies whose personnel are properly licensed by an appropriate 25195
state board or agency. 25196

Transportation of pupils provided pursuant to divisions (E), 25197

(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.

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.

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.

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.

As used in this section, "parent" includes a person standing in loco parentis to a child.

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.

The allocation of payments for materials, equipment, 25229
textbooks, electronic textbooks, health services, and remedial 25230
services to city, local, and exempted village school districts 25231
shall be on the basis of the state board of education's estimated 25232
annual average daily membership in nonpublic elementary and high 25233
schools located in the district. 25234

Payments made to city, local, and exempted village school 25235
districts under this section shall be equal to specific 25236
appropriations made for the purpose. All interest earned by a 25237
school district on such payments shall be used by the district for 25238
the same purposes and in the same manner as the payments may be 25239
used. 25240

The department of education shall adopt guidelines and 25241
procedures under which such programs and services shall be 25242
provided, under which districts shall be reimbursed for 25243
administrative costs incurred in providing such programs and 25244
services, and under which any unexpended balance of the amounts 25245
appropriated by the general assembly to implement this section may 25246
be transferred to the auxiliary services personnel unemployment 25247
compensation fund established pursuant to section 4141.47 of the 25248
Revised Code. The department shall also adopt guidelines and 25249
procedures limiting the purchase and loan of the items described 25250
in division (K) of this section to items that are in general use 25251
in the public schools of the state, that are incapable of 25252
diversion to religious use, and that are susceptible to individual 25253
use rather than classroom use. Within thirty days after the end of 25254
each biennium, each board of education shall remit to the 25255
department all moneys paid to it under division (L) of section 25256
3317.024 of the Revised Code and any interest earned on those 25257
moneys that are not required to pay expenses incurred under this 25258
section during the biennium for which the money was appropriated 25259
and during which the interest was earned. If a board of education 25260

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 25291
department of education. All moneys distributed shall be coded as 25292
to county, school district or educational service center, source, 25293
and other pertinent information, and at the end of each month, a 25294
report of such distribution shall be made by such division of 25295
school finance ~~to the clerk of the senate and the chief~~ 25296
~~administrative officer of the house of representatives, to the~~ 25297
~~Ohio legislative service commission to be available for~~ 25298
~~examination by any member of either house, to each school district~~ 25299
~~and educational service center, and to the governor.~~ 25300

~~On or before the first day of September in each year, a copy~~ 25301
~~of the annual statistical report required in section 3319.33 of~~ 25302
~~the Revised Code shall be filed by the state board of education~~ 25303
~~with the clerk of the senate and the chief administrative officer~~ 25304
~~of the house of representatives, the Ohio legislative service~~ 25305
~~commission, the governor, and the auditor of state. The report~~ 25306
~~shall contain an analysis for the prior fiscal year on an accrual~~ 25307
~~basis of revenue receipts from all sources and expenditures for~~ 25308
~~all purposes for each school district, including each joint~~ 25309
~~vocational and cooperative education school district, in the~~ 25310
state. If any board of education fails to make the report required 25311
in section 3319.33 of the Revised Code, the superintendent of 25312
public instruction shall be without authority to distribute funds 25313
to that school district or educational service center pursuant to 25314
sections 3317.022 to 3317.0212, 3317.11, 3317.16, 3317.17, or 25315
3317.19 of the Revised Code until such time as the required 25316
reports are filed with all specified officers, boards, or 25317
agencies. 25318

Sec. 3317.10. (A) On or before the first day of March of each 25319
year, the department of job and family services shall certify to 25320
the state board of education the unduplicated number of children 25321
ages five through seventeen residing in each school district and 25322

living in a family that, during the preceding October, had family 25323
income not exceeding the federal poverty guidelines as defined in 25324
section 5101.46 of the Revised Code and participated in one of the 25325
following: 25326

(1) Ohio works first; 25327

(2) The food stamp program; 25328

(3) The medical assistance program, including the healthy 25329
start program, established under Chapter 5111. of the Revised 25330
Code; 25331

(4) The children's health insurance program part I 25332
established under section 5101.50 of the Revised Code; 25333

(5) The disability financial assistance program established 25334
under Chapter 5115. of the Revised Code; 25335

~~(6) The disability medical assistance program established 25336
under Chapter 5115. of the Revised Code. 25337~~

The department of job and family services shall certify this 25338
information according to the school district of residence for each 25339
child. Except as provided under division (B) of this section, the 25340
number of children so certified in any year shall be used by the 25341
department of education in calculating the distribution of moneys 25342
for the ensuing fiscal year as provided in section 3317.029 of the 25343
Revised Code. 25344

(B) Upon the transfer of part of the territory of one school 25345
district to the territory of one or more other school districts, 25346
the department of education may adjust the number of children 25347
certified under division (A) of this section for any district 25348
gaining or losing territory in such a transfer in order to take 25349
into account the effect of the transfer on the number of such 25350
children who reside in the district. Within sixty days of receipt 25351
of a request for information from the department of education, the 25352

department of job and family services shall provide any 25353
information the department of education determines is necessary to 25354
make such adjustments. The department of education may use the 25355
adjusted number for any district for the applicable fiscal year, 25356
in lieu of the number certified for the district for that fiscal 25357
year under division (A) of this section, in the calculation of the 25358
distribution of moneys provided in section 3317.029 of the Revised 25359
Code. 25360

Sec. 3317.16. (A) As used in this section: 25361

(1) "State share percentage" means the percentage calculated 25362
for a joint vocational school district as follows: 25363

(a) Calculate the state base cost funding amount for the 25364
district under division (B) of this section. If the district would 25365
not receive any base cost funding for that year under that 25366
division, the district's state share percentage is zero. 25367

(b) If the district would receive base cost funding under 25368
that division, in fiscal year 2006 divide that base cost amount by 25369
an amount equal to the following: 25370

cost-of-doing-business factor X 25371

the formula amount X 25372

formula ADM 25373

(c) If the district would receive base cost funding under 25374
that division, in fiscal year 2007 and thereafter divide that 25375
amount by an amount equal to the greater of the following: 25376

(i) Cost-of-doing-business factor for fiscal year 2006 X 25377
formula amount for fiscal year 2006 X formula ADM for fiscal year 25378
2006; 25379

(ii) Formula amount for the current fiscal year X current 25380
formula ADM. 25381

The resultant number in division (A)(1)(b) or (c) of this 25382

section is the district's state share percentage. 25383

(2) The "total special education weight" for a joint 25384
vocational school district shall be calculated in the same manner 25385
as prescribed in division (B)(1) of section 3317.022 of the 25386
Revised Code. 25387

(3) The "total vocational education weight" for a joint 25388
vocational school district shall be calculated in the same manner 25389
as prescribed in division (B)(4) of section 3317.022 of the 25390
Revised Code. 25391

(4) The "total recognized valuation" of a joint vocational 25392
school district shall be determined by adding the recognized 25393
valuations of all its constituent school districts for the 25394
applicable fiscal year. 25395

(5) "Resident district" means the city, local, or exempted 25396
village school district in which a student is entitled to attend 25397
school under section 3313.64 or 3313.65 of the Revised Code. 25398

(6) "Community school" means a community school established 25399
under Chapter 3314. of the Revised Code. 25400

(B) The department of education shall compute and distribute 25401
state base cost funding to each joint vocational school district 25402
for the fiscal year in accordance with division (B) of this 25403
section. 25404

(1) In fiscal year 2006, state base cost funding for each 25405
eligible joint vocational school district shall be computed 25406
according to the following formula: 25407

(cost-of-doing-business factor X 25408
formula amount X 25409
formula ADM) - 25410
(.0005 X total recognized valuation) 25411

(2) Beginning in fiscal year 2007, state base cost funding 25412

for each joint vocational school district shall be the greater of 25413
the amount computed under division (B)(2)(a) or (b) of this 25414
section minus (0.0005 times recognized valuation). 25415

Accordingly, beginning in fiscal year 2007, the department 25416
shall compute both of the following for each joint vocational 25417
school district: 25418

(a) Cost-of-doing-business factor for fiscal year 2006 X 25419
formula amount for fiscal year 2006 X formula ADM for fiscal year 25420
2006; 25421

(b) Formula amount for the current fiscal year X current 25422
formula ADM. 25423

If the difference obtained under this division is a negative 25424
number, the district's computation shall be zero. 25425

(C)(1) The department shall compute and distribute state 25426
vocational education additional weighted costs funds to each joint 25427
vocational school district in accordance with the following 25428
formula: 25429

state share percentage X formula amount X 25430
total vocational education weight 25431

In each fiscal year, a joint vocational school district 25432
receiving funds under division (C)(1) of this section shall spend 25433
those funds only for the purposes the department designates as 25434
approved for vocational education expenses. Vocational educational 25435
expenses approved by the department shall include only expenses 25436
connected to the delivery of career-technical programming to 25437
career-technical students. The department shall require the joint 25438
vocational school district to report data annually so that the 25439
department may monitor the district's compliance with the 25440
requirements regarding the manner in which funding received under 25441
division (C)(1) of this section may be spent. 25442

(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, 25505
providing services identified in a student's individualized 25506
education program as defined in section 3323.01 of the Revised 25507
Code, provision of speech language pathology services, and the 25508
portion of the district's overall administrative and overhead 25509
costs that are attributable to the district's special education 25510
student population. 25511

The department shall require joint vocational school 25512
districts to report data annually to allow for monitoring 25513
compliance with division (D)(3) of this section. The department 25514
shall annually report to the governor and the general assembly the 25515
amount of money spent by each joint vocational school district for 25516
special education and related services. 25517

(4) In any fiscal year, a joint vocational school district 25518
shall spend for the provision of speech language pathology 25519
services not less than the sum of the amount calculated under 25520
division (D)(1) of this section for the students in the district's 25521
category one special education ADM and the amount calculated under 25522
division (D)(2) of this section. 25523

(E)(1) If a joint vocational school district's costs for a 25524
fiscal year for a student in its categories two through six 25525
special education ADM exceed the threshold catastrophic cost for 25526
serving the student, as specified in division (C)(3)(b) of section 25527
3317.022 of the Revised Code, the district may submit to the 25528
superintendent of public instruction documentation, as prescribed 25529
by the superintendent, of all of its costs for that student. Upon 25530
submission of documentation for a student of the type and in the 25531
manner prescribed, the department shall pay to the district an 25532
amount equal to the sum of the following: 25533

(a) One-half of the district's costs for the student in 25534
excess of the threshold catastrophic cost; 25535

(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;	25567
	25568
(b) The product of the formula amount times the applicable multiple specified in section 3317.013 of the Revised Code;	25569
	25570
(c) Any funds paid under division (E) of this section for the student;	25571
	25572
(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.	25573
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	25576
(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.	25577
	25578
	25579
(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:	25580
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	25586
(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.	25587
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(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.	25591
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	25593
(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	25594
	25595
	25596

Code is less than the amount that district received in fiscal year 25597
1999 under the version of this section in effect that year, plus 25598
the amount that district received under the version of section 25599
3317.162 of the Revised Code in effect that year and minus the 25600
amounts received that year for driver education and adult 25601
education, the department shall pay the district an additional 25602
amount equal to the following: 25603

(1) In any fiscal year prior to fiscal year 2007, the 25604
difference between those two amounts; 25605

(2) In fiscal year 2007, the difference between those two 25606
amounts X 0.50. 25607

Sec. 3317.20. This section does not apply to handicapped 25608
preschool children. 25609

(A) As used in this section: 25610

(1) "Applicable weight" means the multiple specified in 25611
section 3317.013 of the Revised Code for a handicap described in 25612
that section. 25613

(2) "Child's school district" means the school district in 25614
which a child is entitled to attend school pursuant to section 25615
3313.64 or 3313.65 of the Revised Code. 25616

(3) "State share percentage" means the state share percentage 25617
of the child's school district as defined in section 3317.022 of 25618
the Revised Code. 25619

(B) Except as provided in division (C) of this section, the 25620
department shall annually pay each county MR/DD board ~~an amount~~ 25621
~~calculated under the following formula~~ for each handicapped child, 25622
other than a handicapped preschool child, for whom the county 25623
MR/DD board provides special education and related services the 25624
amount calculated under division (B)(1) or (2) of this section. 25625

(1) In fiscal year 2006, the amount for each handicapped child shall be calculated according to the following formula: 25626
(formula amount X the cost-of-doing-business factor for the child's school district) + 25627
(state share percentage X formula amount X the applicable weight) 25628
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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. 25632
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In fiscal year 2007 and thereafter, the department shall calculate both of the following for each county MR/DD board: 25635
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(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); 25637
25638
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(b) The formula amount + (state share percentage X formula amount X the applicable weight). 25641
25642

(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. 25643
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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: 25653
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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>	25686
<u>specified in that division;</u>	25687
<u>(4) The number of children reported by the institution under</u>	25688
<u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u>	25689
<u>receiving services for a handicap described in division (D) of</u>	25690
<u>section 3317.013 of the Revised Code multiplied by the multiple</u>	25691
<u>specified in that division;</u>	25692
<u>(5) The number of children reported by the institution under</u>	25693
<u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u>	25694
<u>receiving services for a handicap described in division (E) of</u>	25695
<u>section 3317.013 of the Revised Code multiplied by the multiple</u>	25696
<u>specified in that division;</u>	25697
<u>(6) The number of children reported by the institution under</u>	25698
<u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u>	25699
<u>receiving services for a handicap described in division (F) of</u>	25700
<u>section 3317.013 of the Revised Code multiplied by the multiple</u>	25701
<u>specified in that division.</u>	25702
<u>(B) The department of education annually shall pay each state</u>	25703
<u>institution required to provide special education services under</u>	25704
<u>division (A) of section 3323.091 of the Revised Code an amount</u>	25705
<u>equal to the greater of:</u>	25706
<u>(1) The formula amount times the institution's total special</u>	25707
<u>education weight;</u>	25708
<u>(2) The aggregate amount of special education and related</u>	25709
<u>services unit funding the institution received for all handicapped</u>	25710
<u>children other than handicapped preschool children in fiscal year</u>	25711
<u>2005 under sections 3317.052 and 3317.053 of the Revised Code, as</u>	25712
<u>those sections existed prior to the effective date of this</u>	25713
<u>section.</u>	25714
Sec. 3317.50. The Ohio schoolnet telecommunity education fund	25715

is hereby created in the state treasury. The fund shall consist of 25716
certain excess local exchange telephone company contributions 25717
transferred from the reserve fund of the Ohio telecommunications 25718
advisory board pursuant to an agreement between the public 25719
utilities commission of Ohio and the Ohio department of education. 25720
The fund shall be used to finance technology grants to 25721
state-chartered elementary and secondary schools. Investment 25722
earnings of the fund shall be credited to the fund. 25723

Sec. 3317.51. (A) The distance learning fund is hereby 25724
created in the state treasury. The fund shall consist of moneys 25725
paid to the agency designated by the governor to assume the 25726
functions of the Ohio SchoolNet commission by any telephone 25727
company as a part of a settlement agreement between such company 25728
and the public utilities commission in fiscal year 1995 in part to 25729
establish distance learning throughout the state. The ~~authority~~ 25730
agency shall administer the fund and expend moneys from it to 25731
finance technology grants to eligible schools chartered by the 25732
state board of education to establish distance learning in those 25733
schools. Chartered schools are eligible for funds if they are 25734
within the service area of the telephone company. Investment 25735
earnings of the fund shall be credited to the fund. 25736

(B) For purposes of this section, "distance learning" means 25737
the creation of a learning environment involving a school setting 25738
and at least one other location outside of the school which allows 25739
for information available at one site to be accessed at the other 25740
through the use of such educational applications as one-way or 25741
two-way transmission of data, voice, and video, singularly or in 25742
appropriate combinations. 25743

Sec. 3318.011. For purposes of providing assistance under 25744
sections 3318.01 to 3318.20 of the Revised Code, the department of 25745
education shall annually do all of the following: 25746

(A) Calculate the adjusted valuation per pupil of each city, 25747
local, and exempted village school district according to the 25748
following formula: 25749
 The district's valuation per pupil - 25750
 [\$30,000 X (1 - the district's income factor)]. 25751
For purposes of this calculation: 25752
 (1) "Valuation per pupil" for a district means its average 25753
taxable value, divided by its adjusted formula ADM ~~reported under,~~ 25754
as defined in section ~~3317.03~~ 3317.02 of the Revised Code, for the 25755
previous fiscal year. 25756
 (2) "Average taxable value" means the average of the amounts 25757
certified for a district in the second, third, and fourth 25758
preceding fiscal years under divisions (A)(1) and (2) of section 25759
3317.021 of the Revised Code. 25760
 (3) "Income factor" has the same meaning as in section 25761
3317.02 of the Revised Code. 25762
(B) Calculate for each district the three-year average of the 25763
adjusted valuations per pupil calculated for the district for the 25764
current and two preceding fiscal years; 25765
(C) Rank all such districts in order of adjusted valuation 25766
per pupil from the district with the lowest three-year average 25767
adjusted valuation per pupil to the district with the highest 25768
three-year average adjusted valuation per pupil; 25769
(D) Divide such ranking into percentiles with the first 25770
percentile containing the one per cent of school districts having 25771
the lowest three-year average adjusted valuations per pupil and 25772
the one-hundredth percentile containing the one per cent of school 25773
districts having the highest three-year average adjusted 25774
valuations per pupil; 25775
(E) Determine the school districts that have three-year 25776

average adjusted valuations per pupil that are greater than the 25777
median three-year average adjusted valuation per pupil for all 25778
school districts in the state; 25779

(F) On or before the first day of September, certify the 25780
information described in divisions (A) to (E) of this section to 25781
the Ohio school facilities commission. 25782

Sec. 3318.111. (A) As used in this section: 25783

(1) "Valuation" of a school district means the sum of the 25784
amounts described in divisions (A)(1) and (2) of section 3317.021 25785
of the Revised Code as most recently certified for the district 25786
before the annual computation is made under division (B) of this 25787
section. 25788

(2) "One-half-mill yield" of a school district means the 25789
amount of taxes that would be charged and payable against the 25790
district's valuation from a tax of one-half mill per dollar of 25791
that valuation. 25792

(3) "One-half-mill yield per pupil" of a school district 25793
means the district's one-half-mill yield divided by the district's 25794
formula ADM as most recently reported under section 3317.03 of the 25795
Revised Code before the annual computation is made under division 25796
(B) of this section. 25797

(4) "Statewide average yield per pupil" means the amount of 25798
taxes that would be charged and payable from a tax levied on the 25799
valuation of all school districts at the rate of one-half mill per 25800
dollar of that valuation divided by the total of the formula ADMs 25801
of all school districts as most recently reported under section 25802
3317.03 of the Revised Code before the annual computation is made 25803
under division (C) of this section. 25804

(5) "Maintenance levy requirement" means the tax required to 25805
be levied pursuant to division (C)(2)(a) of section 3318.08 and 25806

division (B) of section 3318.05 of the Revised Code or the 25807
application of proceeds of another levy to paying the costs of 25808
maintaining classroom facilities pursuant to division (A)(2) of 25809
section 3318.052, division (C)(1) or (C)(2)(b) of section 3318.08, 25810
or division (D)(2) of section 3318.36 of the Revised Code, or a 25811
combination thereof. 25812

(6) "Project agreement" means an agreement between a school 25813
district and the Ohio school facilities commission under section 25814
3318.08 or division (B)(1) of section 3318.36 of the Revised Code. 25815

(B) On or before July 1, 2006, the department of education 25816
shall compute the statewide average yield per pupil and the 25817
one-half-mill yield per pupil of each school district, and provide 25818
them to the Ohio school facilities commission. On or before the 25819
first day of July each year beginning in 2007, the department of 25820
education shall compute the statewide average yield per pupil and 25821
the one-half-mill yield per pupil of each school district that has 25822
already entered into a project agreement, and provide the results 25823
of those computations to the commission. 25824

(C)(1) At the time the Ohio school facilities commission 25825
enters into a project agreement with a school district, the 25826
commission shall compute the difference between the district's 25827
one-half-mill yield per pupil and the statewide average yield per 25828
pupil as most recently provided to the commission under division 25829
(B) of this section. If the school district's one-half-mill yield 25830
per pupil is less than the average statewide yield per pupil, the 25831
commission shall multiply the difference between those amounts by 25832
the formula ADM of the district as most recently reported to the 25833
department of education under division (A) of section 3317.03 of 25834
the Revised Code. The commission shall certify the resulting 25835
product to the department of education, along with the date on 25836
which the maintenance levy requirement terminates as provided in 25837
the project agreement between the school district board and the 25838

commission. 25839

(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. 25840
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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. 25846
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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. 25850
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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. 25855
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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. 25863
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(F) There is hereby created in the state treasury the half-mill equalization fund. The fund shall receive transfers 25868
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pursuant to section 5727.85 of the Revised Code. The fund shall be 25870
used first to make annual payments under division (D) of this 25871
section. If a balance remains in the fund after such payments are 25872
made in full for a year, the Ohio school facilities commission may 25873
request the controlling board to transfer a reasonable amount from 25874
such remaining balance to the public school building fund created 25875
under section 3318.15 of the Revised Code for the purposes of this 25876
chapter. 25877

All investment earnings arising from investment of money in 25878
the half-mill equalization fund shall be credited to the fund. 25879

Sec. 3318.33. (A) There is hereby created in the state 25880
treasury the Ohio school facilities commission fund, which shall 25881
consist of transfers of moneys authorized by the general assembly 25882
and revenues received by the Ohio school facilities commission 25883
under section 3318.31 of the Revised Code. Investment earnings on 25884
moneys in the fund shall be credited to the fund. Moneys in the 25885
fund may be used by the commission to pay personnel and other 25886
administrative expenses, to pay the cost of conducting evaluations 25887
of classroom facilities, to pay the cost of preparing building 25888
design specifications, to pay the cost of providing project 25889
management services, and for other purposes determined by the 25890
commission to be necessary to fulfill its duties under ~~Chapter~~ 25891
~~3318. of the Revised Code~~ this chapter. 25892

(B) The director of budget and management may transfer to the 25893
Ohio school facilities commission fund the investment earnings on 25894
the public school building fund, created in section 3318.15 of the 25895
Revised Code, the investment earnings on the education facilities 25896
trust fund created in section 183.26 of the Revised Code, or both. 25897
The director of budget and management may transfer to the Ohio 25898
school facilities commission fund the investment earnings on the 25899
school building program assistance fund, created under section 25900

3318.25 of the Revised Code, in excess of the amounts needed to 25901
meet estimated federal arbitrage rebate requirements. 25902

Sec. ~~3317.21~~ 3318.47. There is hereby created in the state 25903
treasury the ~~vocational~~ career-technical school building 25904
assistance fund. Money in the fund shall be used solely to provide 25905
interest-free loans to school districts, including joint 25906
vocational school districts, under sections ~~3317.22~~ 3318.48 and 25907
~~3317.23~~ 3318.49 of the Revised Code to assist in financing the 25908
construction of new vocational classroom facilities, the 25909
renovation of existing vocational classroom facilities, or the 25910
purchase of vocational education equipment or facilities. Moneys 25911
in the fund shall consist of transfers made to the fund, any 25912
interest earned by the fund, and repayments of loans made under 25913
sections ~~3317.22~~ 3318.48 and ~~3317.23~~ 3318.49 of the Revised Code. 25914
Investment earnings of the fund shall be credited to the fund. 25915

Sec. ~~3317.22~~ 3318.48. The ~~state board of education~~ Ohio 25916
school facilities commission shall adopt rules in accordance with 25917
Chapter 119. of the Revised Code under which, in any fiscal year 25918
that funds are appropriated from the ~~vocational~~ career-technical 25919
school building assistance fund for such purpose, the ~~state board~~ 25920
commission may make interest-free loans to school districts. The 25921
rules shall include all of the following: 25922

(A) Application procedures, including the date by which 25923
applications shall be made; 25924

(B) Eligibility criteria, which shall include at least the 25925
following provisions: 25926

(1) A requirement that an applicant district demonstrate 25927
financial need for the loan. Indicators of need may include, but 25928
need not be limited to, levels of assessed valuation, enrollment 25929
levels and enrollment changes, ability of the district to maintain 25930

minimum educational standards, and demonstrated good faith efforts 25931
by the district to secure funds from sources other than the state. 25932

(2) A requirement that an applicant district demonstrate the 25933
ability to repay the loan within the maximum period permitted by 25934
division (D) of this section; 25935

(3) A requirement that an applicant district is not eligible 25936
for a loan, other than a loan for the purchase of any vocational 25937
education equipment that is not an approved project cost under 25938
this chapter, if the district, on the date of application for the 25939
loan, has at any time received any state assistance under sections 25940
3318.01 to 3318.20, section 3318.37 or 3318.38, or sections 25941
3318.40 to 3318.45 of the Revised Code or is reasonably expected 25942
to receive state assistance under any of those sections within 25943
three fiscal years; 25944

(4) A requirement that an applicant district agree to comply 25945
with all applicable design specifications and policies of the 25946
commission established pursuant to this chapter in the 25947
construction, renovation, or purchase of facilities or equipment 25948
paid for with the loan, unless such specifications or policies are 25949
waived by the commission. 25950

(C) Loan approval procedures and criteria, including criteria 25951
for prioritizing eligible applications. Criteria for such 25952
prioritization shall include: 25953

(1) Preference for applicant districts that demonstrate 25954
commitment and innovative approaches to the implementation of the 25955
department of education's vocational education modernization plan 25956
pursuant to section 3313.901 of the Revised Code; 25957

(2) Preference for applicant districts that have entered into 25958
or are in the process of entering into cooperative agreements with 25959
technical colleges or other institutions of higher education 25960
either to coordinate secondary vocational education and 25961

post-secondary technical education programs, or to share 25962
facilities and equipment. 25963

(D) Provisions governing the repayment of loans, including a 25964
provision that loans for construction, acquisition, or renovation 25965
of facilities shall be repaid within a maximum of fifteen years 25966
and loans for vocational education equipment shall be repaid 25967
within a maximum of five years; 25968

(E) A requirement that no loan shall be applied to the local 25969
resources a district expends as a condition of participation in a 25970
program established under section 3318.36 or 3318.46 of the 25971
Revised Code. 25972

Sec. ~~3317.23~~ 3318.49. ~~The state board of education Ohio~~ 25973
~~school facilities commission~~ shall enter into a loan agreement 25974
with each school district it approves for a loan under section 25975
~~3317.22~~ 3318.48 of the Revised Code. The agreement shall specify 25976
the amount of the loan, the purposes for which it is to be used, 25977
the duration of the loan, and the repayment schedule. Every such 25978
agreement shall contain a provision ~~authorizing~~ directing the 25979
state board of education, upon the request of the executive 25980
director of the commission, to deduct from payments due to the 25981
district under Chapter 3317. of the Revised Code or from any other 25982
funds appropriated to the district by the general assembly, the 25983
amount of any scheduled loan payment due but not paid by the 25984
district and, within ten days, to transfer that amount to the 25985
commission. 25986

A copy of each loan agreement shall be furnished to the 25987
controlling board. No money shall be released from the ~~vocational~~ 25988
career-technical school building assistance fund without the 25989
approval of the controlling board. 25990

Sec. 3319.081. Except as otherwise provided in division (G) 25991

of this section, in all school districts wherein the provisions of 25992
Chapter 124. of the Revised Code do not apply, the following 25993
employment contract system shall control for employees whose 25994
contracts of employment are not otherwise provided by law: 25995

(A) Newly hired regular nonteaching school employees, 25996
including regular hourly rate and per diem employees, shall enter 25997
into written contracts for their employment which shall be for a 25998
period of not more than one year. If such employees are rehired, 25999
their subsequent contract shall be for a period of two years. 26000

(B) After the termination of the two-year contract provided 26001
in division (A) of this section, if the contract of a nonteaching 26002
employee is renewed, the employee shall be continued in 26003
employment, and the salary provided in the contract may be 26004
increased but not reduced unless such reduction is a part of a 26005
uniform plan affecting the nonteaching employees of the entire 26006
district. 26007

(C) The contracts as provided for in this section may be 26008
terminated by a majority vote of the board of education. ~~Such~~ 26009
Except as provided in sections 3319.0810 and 3319.172 of the 26010
Revised Code, the contracts may be terminated only for violation 26011
of written rules and regulations as set forth by the board of 26012
education or for incompetency, inefficiency, dishonesty, 26013
drunkenness, immoral conduct, insubordination, discourteous 26014
treatment of the public, neglect of duty, or any other acts of 26015
misfeasance, malfeasance, or nonfeasance. In addition to the right 26016
of the board of education to terminate the contract of an 26017
employee, the board may suspend an employee for a definite period 26018
of time or demote the employee for the reasons set forth in this 26019
division. The action of the board of education terminating the 26020
contract of an employee or suspending or demoting ~~him~~ the employee 26021
shall be served upon the employee by certified mail. Within ten 26022
days following the receipt of such notice by the employee, the 26023

employee may file an appeal, in writing, with the court of common 26024
pleas of the county in which such school board is situated. After 26025
hearing the appeal the common pleas court may affirm, disaffirm, 26026
or modify the action of the school board. 26027

A violation of division (A)(7) of section 2907.03 of the 26028
Revised Code is grounds for termination of employment of a 26029
nonteaching employee under this division. 26030

(D) All employees who have been employed by a school district 26031
where the provisions of Chapter 124. of the Revised Code do not 26032
apply, for a period of at least three years on November 24, 1967, 26033
shall hold continuing contracts of employment pursuant to this 26034
section. 26035

(E) Any nonteaching school employee may terminate ~~his~~ the 26036
nonteaching school employee's contract of employment thirty days 26037
subsequent to the filing of a written notice of such termination 26038
with the treasurer of the board. 26039

(F) A person hired exclusively for the purpose of replacing a 26040
nonteaching school employee while such employee is on leave of 26041
absence granted under section 3319.13 of the Revised Code is not a 26042
regular nonteaching school employee under this section. 26043

(G) All nonteaching employees employed pursuant to this 26044
section and Chapter 124. of the Revised Code shall be paid for all 26045
time lost when the schools in which they are employed are closed 26046
owing to an epidemic or other public calamity. Nothing in this 26047
division shall be construed as requiring payment in excess of an 26048
employee's regular wage rate or salary for any time worked while 26049
the school in which ~~he~~ the employee is employed is officially 26050
closed for the reasons set forth in this division. 26051

Sec. 3319.0810. (A) The board of education of any school 26052
district wherein the provisions of Chapter 124. of the Revised 26053

Code do not apply may terminate any of its transportation staff 26054
positions for reasons of economy and efficiency if the board 26055
instead of employing its own staff to transport some or all of the 26056
students enrolled in the district schools enters into a contract 26057
with an independent agent for the provision of transportation 26058
services for such students. Such a contract may be entered into 26059
only if all of the following conditions are satisfied: 26060

(1) Any collective bargaining agreement between the employee 26061
organization representing the employees whose positions are 26062
terminated under this section and the board has expired or will 26063
expire within sixty days and has not been renewed in conformance 26064
with provisions of that agreement and with Chapter 4117. of the 26065
Revised Code, or the agreement contains provisions permitting the 26066
termination of positions for reasons of economy and efficiency 26067
while the agreement is in force and the board is in conformance 26068
with those provisions. 26069

(2) The board permits any employee whose position is 26070
terminated under this section to fill any vacancy within the 26071
district's organization for which the employee is qualified. The 26072
board shall select from among similarly qualified employees to 26073
fill such vacancies pursuant to procedures established under any 26074
collective bargaining agreement between the employee organization 26075
representing the terminated employees and the board that is in 26076
force at the time of the termination, or in absence of such 26077
provisions on the basis of seniority of employment by the board 26078
with the employee with the greatest seniority having highest 26079
priority. 26080

(3) Unless a collective bargaining agreement between the 26081
employee organization representing the terminated employees and 26082
the board that is in force at the time of the termination provides 26083
otherwise, the board permits any employee whose position is 26084
terminated under this section to fill the employee's former 26085

position in the event that the board reinstates that position 26086
within one year after the date the position is terminated under 26087
this section. 26088

(4) The board permits any employee whose position is 26089
terminated under this section to appeal in accordance with section 26090
119.12 of the Revised Code the board's decision to terminate the 26091
employee's position, not to hire that employee for another 26092
position pursuant to division (A)(2) of this section, or not to 26093
rehire that employee for the position if it is reinstated within 26094
one year after the position is terminated pursuant to division 26095
(A)(3) of this section. 26096

(5) The contract entered into by the board and an independent 26097
agent for the provision of transportation services contains a 26098
stipulation requiring the agent to consider hiring any employees 26099
of the school district whose positions are terminated under this 26100
section for similar positions within the agent's organization. 26101

(6) The contract entered into by the board and an independent 26102
agent for the provision of transportation services contains a 26103
stipulation requiring the agent to recognize for purposes of 26104
employee representation in collective bargaining any employee 26105
organization that represented the employees whose positions are 26106
terminated under this section in collective bargaining with the 26107
board at the time of the termination provided: 26108

(a) A majority of all employees in the bargaining unit agree 26109
to such representation; 26110

(b) Such representation is not prohibited by federal law, 26111
including any ruling of the national labor relations board; 26112

(c) The employee organization is not prohibited from 26113
representing nonpublic employees by other provisions of law or its 26114
own governing instruments. 26115

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. 26116
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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. 26120
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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. 26136
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Sec. 3319.17. (A) As used in this section, "interdistrict" 26146

contract" means any contract or agreement entered into by an 26147
educational service center governing board and another board or 26148
other public entity pursuant to section 3313.17, 3313.841, 26149
3313.842, 3313.843, 3313.91, or 3323.08 of the Revised Code, 26150
including any such contract or agreement for the provision of 26151
services funded under division (L) of section 3317.024 of the 26152
Revised Code or provided in any unit approved under section 26153
3317.05 of the Revised Code. 26154

(B) When, for any of the following reasons that apply to any 26155
city, exempted village, local, or joint vocational school district 26156
or any educational service center, the board decides that it will 26157
be necessary to reduce the number of teachers it employs, it may 26158
make a reasonable reduction: 26159

(1) In the case of any district or service center, return to 26160
duty of regular teachers after leaves of absence including leaves 26161
provided pursuant to division (B) of section 3314.10 of the 26162
Revised Code, suspension of schools, ~~or~~ territorial changes 26163
affecting the district or center, or financial reasons; 26164

(2) In the case of any city, exempted village, local, or 26165
joint vocational school district, decreased enrollment of pupils 26166
in the district; 26167

(3) In the case of any governing board of a service center 26168
providing any particular service directly to pupils pursuant to 26169
one or more interdistrict contracts requiring such service, 26170
reduction in the total number of pupils the governing board is 26171
required to provide with the service under all interdistrict 26172
contracts as a result of the termination or nonrenewal of one or 26173
more of these interdistrict contracts; 26174

(4) In the case of any governing board providing any 26175
particular service that it does not provide directly to pupils 26176
pursuant to one or more interdistrict contracts requiring such 26177

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. 26178
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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. 26182
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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. 26194
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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 26200
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to suspension of the teacher's continuing contract, to a position 26210
requiring a lesser percentage of full-time employment than the 26211
position the teacher last held while employed in the district or 26212
service center. 26213

Sec. 3319.172. The board of education of each school district 26214
wherein the provisions of Chapter 124. of the Revised Code do not 26215
apply and the governing board of each educational service center 26216
may adopt a resolution ordering reasonable reductions in the 26217
number of nonteaching employees for any of the reasons for which 26218
the board of education or governing board may make reductions in 26219
teaching employees, as set forth in division (B) of section 26220
3319.17 of the Revised Code. 26221

In making any reduction under this section, the board of 26222
education or governing board shall proceed to suspend contracts in 26223
accordance with the recommendation of the superintendent of the 26224
district or service center who shall, within each pay 26225
classification affected, give preference first to employees under 26226
continuing contracts and then to employees on the basis of 26227
seniority. On a case-by-case basis, in lieu of suspending a 26228
contract in whole, a board may suspend a contract in part, so that 26229
an individual is required to work a percentage of the time the 26230
employee otherwise is required to work under the contract and 26231
receives a commensurate percentage of the full compensation the 26232
employee otherwise would receive under the contract. 26233

Any nonteaching employee whose continuing contract is 26234
suspended under this section shall have the right of restoration 26235
to continuing service status by the board of education or 26236
governing board that suspended that contract in order of seniority 26237
of service in the district or service center, if and when a 26238
nonteaching position for which the employee is qualified becomes 26239
vacant or is created. No nonteaching employee whose continuing 26240

contract has been suspended under this section shall lose that 26241
right of restoration to continuing service status by reason of 26242
having declined recall to a position requiring fewer regularly 26243
scheduled hours of work than required by the position the employee 26244
last held while employed in the district or service center. 26245

Sec. 3319.22. (A)(1) The state board of education shall adopt 26246
rules establishing the standards and requirements for obtaining 26247
temporary, associate, provisional, and professional educator 26248
licenses of any categories, types, and levels the board elects to 26249
provide. However, no educator license shall be required for 26250
teaching children two years old or younger. 26251

(2) If the state board requires any examinations for educator 26252
licensure, the department of education shall provide the results 26253
of such examinations received by the department to the Ohio board 26254
of regents, in the manner and to the extent permitted by state and 26255
federal law. 26256

(B) Any rules the state board of education adopts, amends, or 26257
rescinds for educator licenses under this section, division (D) of 26258
section 3301.07 of the Revised Code, or any other law shall be 26259
adopted, amended, or rescinded under Chapter 119. of the Revised 26260
Code except as follows: 26261

(1) Notwithstanding division (D) of section 119.03 and 26262
division (A)(1) of section 119.04 of the Revised Code, in the case 26263
of the adoption of any rule or the amendment or rescission of any 26264
rule that necessitates institutions' offering teacher preparation 26265
programs that are approved by the state board of education under 26266
section 3319.23 of the Revised Code to revise the curriculum of 26267
those programs, the effective date shall not be as prescribed in 26268
division (D) of section 119.03 and division (A)(1) of section 26269
119.04 of the Revised Code. Instead, the effective date of such 26270
rules, or the amendment or rescission of such rules, shall be the 26271

date prescribed by section 3319.23 of the Revised Code. 26272

(2) Notwithstanding the authority to adopt, amend, or rescind 26273
emergency rules in division (F) of section 119.03 of the Revised 26274
Code, this authority shall not apply to the state board of 26275
education with regard to rules for educator licenses. 26276

(C)(1) The rules adopted under this section establishing 26277
standards requiring additional coursework for the renewal of any 26278
educator license shall require a school district and a chartered 26279
nonpublic school to establish local professional development 26280
committees. In a nonpublic school, the chief administrative 26281
officer shall establish the committees in any manner acceptable to 26282
such officer. The committees established under this division shall 26283
determine whether coursework that a district or chartered 26284
nonpublic school teacher proposes to complete meets the 26285
requirement of the rules. The department of education shall 26286
provide technical assistance and support to committees as the 26287
committees incorporate the professional development standards 26288
adopted by the state board of education pursuant to section 26289
3319.61 of the Revised Code into their review of coursework that 26290
is appropriate for license renewal. The rules shall establish a 26291
procedure by which a teacher may appeal the decision of a local 26292
professional development committee. 26293

(2) In any school district in which there is no exclusive 26294
representative established under Chapter 4117. of the Revised 26295
Code, the professional development committees shall be established 26296
as described in division (C)(2) of this section. 26297

Not later than the effective date of the rules adopted under 26298
this section, the board of education of each school district shall 26299
establish the structure for one or more local professional 26300
development committees to be operated by such school district. The 26301
committee structure so established by a district board shall 26302

remain in effect unless within thirty days prior to an anniversary 26303
of the date upon which the current committee structure was 26304
established, the board provides notice to all affected district 26305
employees that the committee structure is to be modified. 26306
Professional development committees may have a district-level or 26307
building-level scope of operations, and may be established with 26308
regard to particular grade or age levels for which an educator 26309
license is designated. 26310

Each professional development committee shall consist of at 26311
least three classroom teachers employed by the district, one 26312
principal employed by the district, and one other employee of the 26313
district appointed by the district superintendent. For committees 26314
with a building-level scope, the teacher and principal members 26315
shall be assigned to that building, and the teacher members shall 26316
be elected by majority vote of the classroom teachers assigned to 26317
that building. For committees with a district-level scope, the 26318
teacher members shall be elected by majority vote of the classroom 26319
teachers of the district, and the principal member shall be 26320
elected by a majority vote of the principals of the district, 26321
unless there are two or fewer principals employed by the district, 26322
in which case the one or two principals employed shall serve on 26323
the committee. If a committee has a particular grade or age level 26324
scope, the teacher members shall be licensed to teach such grade 26325
or age levels, and shall be elected by majority vote of the 26326
classroom teachers holding such a license and the principal shall 26327
be elected by all principals serving in buildings where any such 26328
teachers serve. The district superintendent shall appoint a 26329
replacement to fill any vacancy that occurs on a professional 26330
development committee, except in the case of vacancies among the 26331
elected classroom teacher members, which shall be filled by vote 26332
of the remaining members of the committee so selected. 26333

Terms of office on professional development committees shall 26334

be prescribed by the district board establishing the committees. 26335
The conduct of elections for members of professional development 26336
committees shall be prescribed by the district board establishing 26337
the committees. A professional development committee may include 26338
additional members, except that the majority of members on each 26339
such committee shall be classroom teachers employed by the 26340
district. Any member appointed to fill a vacancy occurring prior 26341
to the expiration date of the term for which a predecessor was 26342
appointed shall hold office as a member for the remainder of that 26343
term. 26344

The initial meeting of any professional development 26345
committee, upon election and appointment of all committee members, 26346
shall be called by a member designated by the district 26347
superintendent. At this initial meeting, the committee shall 26348
select a chairperson and such other officers the committee deems 26349
necessary, and shall adopt rules for the conduct of its meetings. 26350
Thereafter, the committee shall meet at the call of the 26351
chairperson or upon the filing of a petition with the district 26352
superintendent signed by a majority of the committee members 26353
calling for the committee to meet. 26354

(3) In the case of a school district in which an exclusive 26355
representative has been established pursuant to Chapter 4117. of 26356
the Revised Code, professional development committees shall be 26357
established in accordance with any collective bargaining agreement 26358
in effect in the district that includes provisions for such 26359
committees. 26360

If the collective bargaining agreement does not specify a 26361
different method for the selection of teacher members of the 26362
committees, the exclusive representative of the district's 26363
teachers shall select the teacher members. 26364

If the collective bargaining agreement does not specify a 26365

different structure for the committees, the board of education of 26366
the school district shall establish the structure, including the 26367
number of committees and the number of teacher and administrative 26368
members on each committee; the specific administrative members to 26369
be part of each committee; whether the scope of the committees 26370
will be district levels, building levels, or by type of grade or 26371
age levels for which educator licenses are designated; the lengths 26372
of terms for members; the manner of filling vacancies on the 26373
committees; and the frequency and time and place of meetings. 26374
However, in all cases, except as provided in division (C)(4) of 26375
this section, there shall be a majority of teacher members of any 26376
professional development committee, there shall be at least five 26377
total members of any professional development committee, and the 26378
exclusive representative shall designate replacement members in 26379
the case of vacancies among teacher members, unless the collective 26380
bargaining agreement specifies a different method of selecting 26381
such replacements. 26382

(4) Whenever an administrator's coursework plan is being 26383
discussed or voted upon, the local professional development 26384
committee shall, at the request of one of its administrative 26385
members, cause a majority of the committee to consist of 26386
administrative members by reducing the number of teacher members 26387
voting on the plan. 26388

(D)(1) The department of education, educational service 26389
centers, county boards of mental retardation and developmental 26390
disabilities, regional professional development centers, special 26391
education regional resource centers, college and university 26392
departments of education, head start programs, the agency 26393
designated by the governor to assume the functions of the Ohio 26394
SchoolNet commission, and the Ohio education computer network may 26395
establish local professional development committees to determine 26396
whether the coursework proposed by their employees who are 26397

licensed or certificated under this section or section 3319.222 of 26398
the Revised Code meet the requirements of the rules adopted under 26399
this section. They may establish local professional development 26400
committees on their own or in collaboration with a school district 26401
or other agency having authority to establish them. 26402

Local professional development committees established by 26403
county boards of mental retardation and developmental disabilities 26404
shall be structured in a manner comparable to the structures 26405
prescribed for school districts in divisions (C)(2) and (3) of 26406
this section, as shall the committees established by any other 26407
entity specified in division (D)(1) of this section that provides 26408
educational services by employing or contracting for services of 26409
classroom teachers licensed or certificated under this section or 26410
section 3319.222 of the Revised Code. All other entities specified 26411
in division (D)(1) of this section shall structure their 26412
committees in accordance with guidelines which shall be issued by 26413
the state board. 26414

(2) Any public agency that is not specified in division 26415
(D)(1) of this section but provides educational services and 26416
employs or contracts for services of classroom teachers licensed 26417
or certificated under this section or section 3319.222 of the 26418
Revised Code may establish a local professional development 26419
committee, subject to the approval of the department of education. 26420
The committee shall be structured in accordance with guidelines 26421
issued by the state board. 26422

Sec. 3319.235. (A) The standards for the preparation of 26423
teachers adopted under section 3319.23 of the Revised Code shall 26424
require any institution that provides a course of study for the 26425
training of teachers to ensure that graduates of such course of 26426
study are skilled at integrating educational technology in the 26427
instruction of children, as evidenced by the graduate having 26428

either demonstrated proficiency in such skills in a manner 26429
prescribed by the department of education or completed a course 26430
that includes training in such skills. 26431

(B) The agency designated by the governor to assume the 26432
functions of the Ohio SchoolNet commission, ~~established pursuant~~ 26433
~~to section 3301.80 of the Revised Code,~~ shall establish model 26434
professional development programs to assist teachers who completed 26435
their teacher preparation prior to the effective date of division 26436
(A) of this section to become skilled at integrating educational 26437
technology in the instruction of children. The ~~commission~~ agency 26438
shall provide technical assistance to school districts wishing to 26439
establish such programs. 26440

Sec. 3319.55. (A) A grant program is hereby established to 26441
recognize and reward teachers in public and chartered nonpublic 26442
schools who hold valid teaching certificates or licenses issued by 26443
the national board for professional teaching standards. The 26444
superintendent of public instruction shall administer this program 26445
in accordance with this section and rules which the state board of 26446
education shall adopt in accordance with Chapter 119. of the 26447
Revised Code. 26448

In each fiscal year that the general assembly appropriates 26449
funds for purposes of this section, the superintendent of public 26450
instruction shall award a grant to each person who, by the first 26451
day of April of that year and in accordance with the rules adopted 26452
under this section, submits to the superintendent evidence 26453
indicating all of the following: 26454

(1) The person holds a valid certificate or license issued by 26455
the national board for professional teaching standards; 26456

(2) The person has been employed full-time as a teacher by 26457
the board of education of a school district or by a chartered 26458
nonpublic school in this state during the current school year; 26459

(3) The date the person was accepted into the national board certification or licensure program. 26460
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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. 26462
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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: 26467
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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; 26470
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(2) One thousand dollars for any other teacher issued a certificate or license by the national board. 26474
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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. 26476
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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. 26481
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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 26486
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services to a disabled child during a school year, both of the 26490
following shall apply: 26491

(1) Beginning with fiscal year 1999, if the provider of the 26492
services intends to increase the amount it charges for some or all 26493
of those services during the next school year or if the provider 26494
intends to cease offering all or part of those services during the 26495
next school year, the provider shall notify the entity for which 26496
the services are provided of these intended changes no later than 26497
the first day of March of the current fiscal year. 26498

(2) Beginning with fiscal year 1999, if the entity for which 26499
services are provided intends to cease obtaining those services 26500
from the provider for the next school year or intends to change 26501
the type or amount of services it obtains from the provider for 26502
the next school year, the entity shall notify the service provider 26503
of these intended changes no later than the first day of March of 26504
the current fiscal year. 26505

(B) School districts, educational service centers, 26506
participating county MR/DD boards, and other applicable 26507
governmental entities shall collaborate where possible to maximize 26508
federal sources of revenue, ~~including the community alternative~~ 26509
~~funding system of the medical assistance program established under~~ 26510
~~Chapter 5111. of the Revised Code,~~ to provide additional funds for 26511
special education related services for disabled children. 26512
Annually, each school district shall report to the department of 26513
education any amounts of money the district received through such 26514
medical assistance program. 26515

(C) The state board of education, the department of mental 26516
retardation and developmental disabilities, and the department of 26517
job and family services shall develop working agreements for 26518
pursuing additional funds for services for disabled children. 26519

Sec. 3323.091. (A) The department of mental health, the 26520
department of mental retardation and developmental disabilities, 26521
the department of youth services, and the department of 26522
rehabilitation and correction shall establish and maintain special 26523
education programs for handicapped children in institutions under 26524
their jurisdiction according to standards adopted by the state 26525
board of education. ~~The~~ 26526

(B) The superintendent of each state institution required to 26527
provide services under division (A) of this section, and each 26528
county MR/DD board, providing special education for handicapped 26529
preschool children under this chapter may apply to the state 26530
department of education for unit funding, which shall be paid in 26531
accordance with sections 3317.052 and 3317.053 of the Revised 26532
Code. 26533

~~(B) On~~ The superintendent of each state institution required 26534
to provide services under division (A) of this section may apply 26535
to the department of education for special education and related 26536
services weighted funding for handicapped children other than 26537
handicapped preschool children, calculated in accordance with 26538
section 3317.201 of the Revised Code. 26539

Each county MR/DD board providing special education for 26540
handicapped children other than handicapped preschool children may 26541
apply to the department of education for base cost and special 26542
education and related services weighted funding calculated in 26543
accordance with section 3317.20 of the Revised Code. 26544

(C) In addition to the authorization to apply for state 26545
funding described in division (B) of this section, each state 26546
institution required to provide services under division (A) of 26547
this section is entitled to tuition payments calculated in the 26548
manner described in division (C) of this section. 26549

On or before the thirtieth day of June of each year, the 26550

superintendent of each institution that during the school year 26551
provided special education pursuant to this section shall prepare 26552
a statement for each handicapped child under twenty-two years of 26553
age who has received special education. The statement shall 26554
contain the child's name and the name of the child's school 26555
district of residence. Within sixty days after receipt of such 26556
statement, the department of education shall perform one of the 26557
following: 26558

(1) For any child except a handicapped preschool child 26559
described in division ~~(B)~~(C)(2) of this section, pay to the 26560
institution submitting the statement an amount equal to the 26561
tuition calculated under division (A) of section 3317.08 of the 26562
Revised Code for the period covered by the statement, and deduct 26563
the same from the amount of state funds, if any, payable under 26564
sections 3317.022 and 3317.023 of the Revised Code, to the child's 26565
school district of residence or, if the amount of such state funds 26566
is insufficient, require the child's school district of residence 26567
to pay the institution submitting the statement an amount equal to 26568
the amount determined under this division. 26569

(2) For any handicapped preschool child not included in a 26570
unit approved under division (B) of section 3317.05 of the Revised 26571
Code, perform the following: 26572

(a) Pay to the institution submitting the statement an amount 26573
equal to the tuition calculated under division (B) of section 26574
3317.08 of the Revised Code for the period covered by the 26575
statement, except that in calculating the tuition under that 26576
section the operating expenses of the institution submitting the 26577
statement under this section shall be used instead of the 26578
operating expenses of the school district of residence; 26579

(b) Deduct from the amount of state funds, if any, payable 26580
under sections 3317.022 and 3317.023 of the Revised Code to the 26581
child's school district of residence an amount equal to the amount 26582

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 26614
the department. 26615

(C) If a district providing special education for a child 26616
reports an amount for the excess cost of those services, as 26617
authorized and calculated under division (A) or (B) of this 26618
section, the department shall pay that amount of excess cost to 26619
the district providing the services and shall deduct that amount 26620
from the child's district of residence in accordance with division 26621
(N) of section 3317.023 of the Revised Code. 26622

Sec. 3323.16. No unit for deaf children shall be disapproved 26623
for funding under division (B) ~~or (D)(1)~~ of section 3317.05 of the 26624
Revised Code on the basis of the methods of instruction used in 26625
educational programs in the school district or institution to 26626
teach deaf children to communicate, and no preference in approving 26627
units for funding shall be given for teaching deaf children by the 26628
oral, manual, total communication, or other method of instruction. 26629

Sec. 3323.20. On July 1, 2006, and on each first day of July 26630
thereafter, the department of education shall electronically 26631
report to the general assembly the number of handicapped preschool 26632
children who received services for which the department made a 26633
payment to any provider during the previous fiscal year, 26634
disaggregated according to each category of handicap described in 26635
divisions (A) to (F) of section 3317.013 of the Revised Code, 26636
regardless of whether payment for services was based on the 26637
multiples prescribed in those divisions. 26638

Sec. 3323.30. The Ohio center for autism and low incidence is 26639
hereby established within the department of education's office for 26640
exceptional children, or any successor of that office. The center 26641
shall administer programs and coordinate services for infants, 26642
preschool and school-age children, and adults with autism and low 26643

incidence disabilities. The center's principal focus shall be 26644
programs and services for persons with autism. The center shall be 26645
under the direction of an executive director, appointed by the 26646
superintendent of public instruction in consultation with the 26647
advisory board established under section 3323.31 of the Revised 26648
Code. The department shall use state and federal funds 26649
appropriated to the department for operation of the center. 26650

As used in this section and in sections 3323.31 to 3323.33 of 26651
the Revised Code, "autism and low incidence disabilities" includes 26652
any of the following: 26653

- (A) Autism; 26654
- (B) Deafness or hearing handicap; 26655
- (C) Multihandicap; 26656
- (D) Orthopedic handicap; 26657
- (E) Other health handicap; 26658
- (F) Traumatic brain injury; 26659
- (G) Visual disability. 26660

Sec. 3323.31. The superintendent of public instruction shall 26661
establish an advisory board to assist and advise the department of 26662
education in the operation of the Ohio center for autism and low 26663
incidence. As determined by the superintendent, the advisory board 26664
shall consist of individuals who are stakeholders in the service 26665
to persons with autism and low incidence disabilities, including, 26666
but not limited to, the following: 26667

- (A) Persons with autism and low incidence disabilities; 26668
- (B) Parents and family members; 26669
- (C) Educators and other professionals; 26670

(D) Higher education instructors; 26671

(E) Representatives of state agencies. 26672

The advisory board shall be organized as determined by the 26673
superintendent. 26674

Members of the advisory board shall receive no compensation 26675
for their services. 26676

Sec. 3323.32. The Ohio center for autism and low incidence 26677
shall do all of the following: 26678

(A) Collaborate and consult with state agencies that serve 26679
persons with autism and low incidence disabilities; 26680

(B) Collaborate and consult with institutions of higher 26681
education in development and implementation of courses for 26682
educators and other professionals serving persons with autism and 26683
low incidence disabilities; 26684

(C) Collaborate with parent and professional organizations; 26685

(D) Create and implement programs for professional 26686
development, technical assistance, intervention services, and 26687
research in the treatment of persons with autism and low incidence 26688
disabilities; 26689

(E) Create a regional network for communication and 26690
dissemination of information among educators and professionals 26691
serving persons with autism and low incidence disabilities. The 26692
regional network shall address educational services, evaluation, 26693
diagnosis, assistive technology, family support, leisure and 26694
recreational activities, transition, employment and adult 26695
services, and medical care for persons with autism and low 26696
incidence disabilities. 26697

(F) Develop a statewide clearinghouse for information about 26698
autism spectrum disorders and low incidence disabilities, as 26699

described in section 3323.33 of the Revised Code.

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Sec. 3323.33. In developing a clearinghouse for information about autism spectrum disorders and low incidence disabilities, as required under section 3323.32 of the Revised Code, the Ohio center for autism and low incidence shall do all of the following:

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(A) Maintain a collection of resources for public distribution;

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(B) Monitor information on resources, trends, policies, services, and current educational interventions;

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(C) Respond to requests for information from parents and educators of children with autism and low incidence disabilities.

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Sec. 3324.10. (A) As used in this section, "grade acceleration" means the promotion of a student to a grade higher than the grade that would generally follow the one the student has completed.

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(B) Not later than March 31, 2006, the superintendent of public instruction shall review the grade acceleration policies of school districts throughout the state and adopt as the state's policy the policy from among that group that represents the best practices for a statewide grade acceleration policy, as determined by the superintendent. The superintendent shall provide each district with a copy of the policy upon its adoption. Any school district board of education that has not adopted a grade acceleration policy for use in its district shall comply with the statewide grade acceleration policy.

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(C) The statewide grade acceleration policy adopted pursuant to this section shall be effective beginning with the 2006-2007 school year.

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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 26758
fund shall be credited to the fund and allocated among the student 26759
accounts in proportion to the amount invested from each student's 26760
account. 26761

Sec. 3325.15. The state school for the deaf may receive and 26762
administer any federal funds relating to the education of deaf or 26763
hearing-impaired students. The school for the deaf also may accept 26764
and administer any gifts, donations, or bequests given to it for 26765
programs or services relating to the education of deaf or 26766
hearing-impaired students. 26767

Sec. 3325.16. There is hereby created in the state treasury 26768
the state school for the deaf educational program expenses fund. 26769
Moneys received by the school from donations, bequests, student 26770
fundraising activities, fees charged for camps and workshops, gate 26771
receipts from athletic contests, and the student work experience 26772
program operated by the school, and any other moneys designated 26773
for deposit in the fund by the superintendent of the school, shall 26774
be credited to the fund. Notwithstanding section 3325.01 of the 26775
Revised Code, the approval of the state board of education is not 26776
required to designate money for deposit into the fund. The state 26777
school for the deaf shall use moneys in the fund for educational 26778
programs, after-school activities, and expenses associated with 26779
student activities and clubs. 26780

Sec. 3325.17. There is hereby created the state school for 26781
the deaf student account fund, which shall be in the custody of 26782
the treasurer of state but shall not be part of the state 26783
treasury. The fund shall consist of all moneys received from the 26784
parents or guardians of students attending the state school for 26785
the deaf that are designated for use by the respective students in 26786

activities of their choice. The treasurer of state may invest any 26787
portion of the fund not needed for immediate use in the same 26788
manner as, and subject to laws regarding the investment of, state 26789
funds. The treasurer of state shall disburse money from the fund 26790
on order of the superintendent of the state school for the deaf or 26791
the superintendent's designee. All investment earnings of the fund 26792
shall be credited to the fund and allocated among the student 26793
accounts in proportion to the amount invested from each student's 26794
account. 26795

Sec. 3327.01. Notwithstanding division (D) of section 3311.19 26796
and division (D) of section 3311.52 of the Revised Code, this 26797
section and sections 3327.011, 3327.012, and 3327.02 of the 26798
Revised Code do not apply to any joint vocational or cooperative 26799
education school district. 26800

In all city, local, and exempted village school districts 26801
where resident school pupils in grades kindergarten through eight 26802
live more than two miles from the school for which the state board 26803
of education prescribes minimum standards pursuant to division (D) 26804
of section 3301.07 of the Revised Code and to which they are 26805
assigned by the board of education of the district of residence or 26806
to and from the nonpublic or community school which they attend 26807
the board of education shall provide transportation for such 26808
pupils to and from such school except as provided in section 26809
3327.02 of the Revised Code. 26810

In all city, local, and exempted village school districts 26811
where pupil transportation is required under a career-technical 26812
plan approved by the state board of education under section 26813
3313.90 of the Revised Code, for any student attending a 26814
career-technical program operated by another school district, 26815
including a joint vocational school district, as prescribed under 26816

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 26848
and from school or special education classes for educable mentally 26849
retarded children in accordance with standards adopted by the 26850
state board of education. 26851

When transportation of pupils is provided the conveyance 26852
shall be run on a time schedule that shall be adopted and put in 26853
force by the board not later than ten days after the beginning of 26854
the school term. 26855

The cost of any transportation service authorized by this 26856
section shall be paid first out of federal funds, if any, 26857
available for the purpose of pupil transportation, and secondly 26858
out of state appropriations, in accordance with regulations 26859
adopted by the state board of education. 26860

No transportation of any pupils shall be provided by any 26861
board of education to or from any school which in the selection of 26862
pupils, faculty members, or employees, practices discrimination 26863
against any person on the grounds of race, color, religion, or 26864
national origin. 26865

Sec. 3332.092. Any school subject to this chapter receiving 26866
money under section 3333.12 or 3333.122 of the Revised Code on 26867
behalf of a student who is determined by the state board of career 26868
colleges and schools to be ineligible under such section because 26869
the program in which the student is enrolled does not lead to an 26870
associate or baccalaureate degree, shall be liable to the state 26871
for the amount specified in section 3333.12 or 3333.122 of the 26872
Revised Code. The state board of career colleges and schools shall 26873
suspend the certificate of registration of a school receiving 26874
money under section 3333.12 or 3333.122 of the Revised Code for 26875
such ineligible student until such time as the money is repaid to 26876
the Ohio board of regents. 26877

Sec. 3333.04. The Ohio board of regents shall:	26878
(A) Make studies of state policy in the field of higher education and formulate a master plan for higher education for the state, considering the needs of the people, the needs of the state, and the role of individual public and private institutions within the state in fulfilling these needs;	26879 26880 26881 26882 26883
(B)(1) Report annually to the governor and the general assembly on the findings from its studies and the master plan for higher education for the state;	26884 26885 26886
(2) Report at least semiannually to the general assembly and the governor the enrollment numbers at each state-assisted institution of higher education.	26887 26888 26889
(C) Approve or disapprove the establishment of new branches or academic centers of state colleges and universities;	26890 26891
(D) Approve or disapprove the establishment of state technical colleges or any other state institution of higher education;	26892 26893 26894
(E) Recommend the nature of the programs, undergraduate, graduate, professional, state-financed research, and public services which should be offered by the state colleges, universities, and other state-assisted institutions of higher education in order to utilize to the best advantage their facilities and personnel;	26895 26896 26897 26898 26899 26900
(F) Recommend to the state colleges, universities, and other state-assisted institutions of higher education graduate or professional programs, including, but not limited to, doctor of philosophy, doctor of education, and juris doctor programs, that could be eliminated because they constitute unnecessary duplication, as shall be determined using the process developed pursuant to this section, or for other good and sufficient cause.	26901 26902 26903 26904 26905 26906 26907

For purposes of determining the amounts of any state instructional 26908
subsidies paid to these colleges, universities, and institutions, 26909
the board may exclude students enrolled in any program that the 26910
board has recommended for elimination pursuant to this division 26911
except that the board shall not exclude any such student who 26912
enrolled in the program prior to the date on which the board 26913
initially commences to exclude students under this division. The 26914
board of regents and these colleges, universities, and 26915
institutions shall jointly develop a process for determining which 26916
existing graduate or professional programs constitute unnecessary 26917
duplication. 26918

(G) Recommend to the state colleges, universities, and other 26919
state-assisted institutions of higher education programs which 26920
should be added to their present programs; 26921

(H) Conduct studies for the state colleges, universities, and 26922
other state-assisted institutions of higher education to assist 26923
them in making the best and most efficient use of their existing 26924
facilities and personnel; 26925

(I) Make recommendations to the governor and general assembly 26926
concerning the development of state-financed capital plans for 26927
higher education; the establishment of new state colleges, 26928
universities, and other state-assisted institutions of higher 26929
education; and the establishment of new programs at the existing 26930
state colleges, universities, and other institutions of higher 26931
education; 26932

(J) Review the appropriation requests of the public community 26933
colleges and the state colleges and universities and submit to the 26934
office of budget and management and to the chairpersons of the 26935
finance committees of the house of representatives and of the 26936
senate its recommendations in regard to the biennial higher 26937
education appropriation for the state, including appropriations 26938

for the individual state colleges and universities and public
community colleges. For the purpose of determining the amounts of
instructional subsidies to be paid to state-assisted colleges and
universities, the board shall define "full-time equivalent
student" by program per academic year. The definition may take
into account the establishment of minimum enrollment levels in
technical education programs below which support allowances will
not be paid. Except as otherwise provided in this section, the
board shall make no change in the definition of "full-time
equivalent student" in effect on November 15, 1981, which would
increase or decrease the number of subsidy-eligible full-time
equivalent students, without first submitting a fiscal impact
statement to the president of the senate, the speaker of the house
of representatives, ~~the legislative budget office of the~~
legislative service commission, and the director of budget and
management. The board shall work in close cooperation with the
director of budget and management in this respect and in all other
matters concerning the expenditures of appropriated funds by state
colleges, universities, and other institutions of higher
education.

(K) Seek the cooperation and advice of the officers and
trustees of both public and private colleges, universities, and
other institutions of higher education in the state in performing
its duties and making its plans, studies, and recommendations;

(L) Appoint advisory committees consisting of persons
associated with public or private secondary schools, members of
the state board of education, or personnel of the state department
of education;

(M) Appoint advisory committees consisting of college and
university personnel, or other persons knowledgeable in the field
of higher education, or both, in order to obtain their advice and
assistance in defining and suggesting solutions for the problems

and needs of higher education in this state;	26971
(N) Approve or disapprove all new degrees and new degree programs at all state colleges, universities, and other state-assisted institutions of higher education;	26972 26973 26974
(O) Adopt such rules as are necessary to carry out its duties and responsibilities;	26975 26976
(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:	26977 26978 26979 26980
(1) Increased access to higher education;	26981
(2) Job training;	26982
(3) Adult literacy;	26983
(4) Research;	26984
(5) Excellence in higher education;	26985
(6) Reduction in the number of graduate programs within the same subject area.	26986 26987
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.	26988 26989 26990
(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;	26991 26992 26993 26994
(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;	26995 26996 26997 26998
(S) Adopt rules for student financial aid programs as	26999

required by sections 3333.12, 3333.122, 3333.21 to 3333.27, 27000
3333.28, 3333.29, and 5910.02 of the Revised Code, and perform any 27001
other administrative functions assigned to the board by those 27002
sections; 27003

(T) Administer contracts under sections 3702.74 and 3702.75 27004
of the Revised Code in accordance with rules adopted by the 27005
director of health under section 3702.79 of the Revised Code; 27006

(U) Conduct enrollment audits of state-supported institutions 27007
of higher education; 27008

(V) Appoint consortiums of college and university personnel 27009
to participate in the development and operation of statewide 27010
collaborative efforts, including the Ohio supercomputer center, 27011
the Ohio academic resources network, OhioLink, and the Ohio 27012
learning network. For each consortium, the board shall designate a 27013
college or university to serve as that consortium's fiscal agent, 27014
financial officer, and employer. Any funds appropriated to the 27015
board for consortiums shall be distributed to the fiscal agents 27016
for the operation of the consortiums. A consortium shall follow 27017
the rules of the college or university that serves as its fiscal 27018
agent. 27019

Sec. 3333.044. (A) The Ohio board of regents may contract 27020
with any consultants that are necessary for the discharge of the 27021
board's duties under this chapter. 27022

(B) The Ohio board of regents may purchase, upon the terms 27023
that the board determines to be advisable, one or more policies of 27024
insurance from insurers authorized to do business in this state 27025
that insure consultants who have contracted with the board under 27026
division (A) of this section or members of an advisory committee 27027
appointed under section 3333.04 of the Revised Code, with respect 27028
to the activities of the consultants or advisory committee members 27029

in the course of the performance of their responsibilities as 27030
consultants or advisory committee members. 27031

(C) Subject to the approval of the controlling board, the 27032
Ohio board of regents may contract with any entities for the 27033
discharge of the board's duties and responsibilities under any of 27034
the programs established pursuant to sections 3333.12, 3333.122, 27035
3333.21 to 3333.28, 3702.71 to 3702.81, and 5120.55, and Chapter 27036
5910. of the Revised Code. The board shall not enter into a 27037
contract under this division unless the proposed contractor 27038
demonstrates that its primary purpose is to promote access to 27039
higher education by providing student financial assistance through 27040
loans, grants, or scholarships, and by providing high quality 27041
support services and information to students and their families 27042
with regard to such financial assistance. 27043

Chapter 125. of the Revised Code does not apply to contracts 27044
entered into pursuant to this section. In awarding contracts under 27045
this division, the board shall consider factors such as the cost 27046
of the administration of the contract, the experience of the 27047
contractor, and the contractor's ability to properly execute the 27048
contract. 27049

Sec. 3333.047. With regard to any state student financial aid 27050
program established in this chapter, Chapter 5910., or section 27051
5919.34 of the Revised Code, the Ohio board of regents shall 27052
conduct audits to: 27053

(A) Determine the validity of information provided by 27054
students and parents regarding eligibility for state student 27055
financial aid. If the board determines that eligibility data has 27056
been reported incorrectly or inaccurately, and where the board 27057
determines an adjustment to be appropriate, the institution of 27058
higher education shall adjust the financial aid awarded to the 27059
student. 27060

(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.

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Sec. 3333.12. (A) As used in this section: 27067

(1) "Eligible student" means an undergraduate student who is: 27068

(a) An Ohio resident enrolled in an undergraduate program before July 1, 2006; 27069
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(b) Enrolled in either of the following: 27071

(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. 27072
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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. 27087
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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 27122
as prescribed by the board, and such applications may be made in 27123
conjunction with and upon the basis of information provided in 27124
conjunction with student assistance programs funded by agencies of 27125
the United States government or from financial resources of the 27126
institution of higher education. The institution shall certify 27127
that the student applicant meets the requirements set forth in 27128
divisions (A)(1)(b) and (c) of this section. Instructional grants 27129
shall be provided to an eligible student only as long as the 27130
student is making appropriate progress toward a nursing diploma or 27131
an associate or bachelor's degree. No student shall be eligible to 27132
receive a grant for more than ten semesters, fifteen quarters, or 27133
the equivalent of five academic years. A grant made to an eligible 27134
student on the basis of less than full-time enrollment shall be 27135
based on the number of credit hours for which the student is 27136
enrolled and shall be computed in accordance with a formula 27137
adopted by the board. No student shall receive more than one grant 27138
on the basis of less than full-time enrollment. 27139

An instructional grant shall not exceed the total 27140
instructional and general charges of the institution. 27141

(C) The tables in this division prescribe the maximum grant 27142
amounts covering two semesters, three quarters, or a comparable 27143
portion of one academic year. Grant amounts for additional terms 27144
in the same academic year shall be determined under division (D) 27145
of this section. 27146

For a full-time student who is a dependent and enrolled in a 27147
nonprofit educational institution that is not a state-assisted 27148
institution and that has a certificate of authorization issued 27149
pursuant to Chapter 1713. of the Revised Code, the amount of the 27150
instructional grant for two semesters, three quarters, or a 27151
comparable portion of the academic year shall be determined in 27152
accordance with the following table: 27153

	Private Institution					27154
	Table of Grants					27155
	Maximum Grant \$5,466					27156
Gross Income	Number of Dependents					27157
	1	2	3	4	5 or more	27158
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	27159
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466	27160
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466	27161
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466	27162
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	27163
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	27164
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	27165
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	27166
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	27167
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	27168
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	27169
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	27170
\$34,001 - \$35,000	444	888	984	1,080	1,344	27171
\$35,001 - \$36,000	--	444	888	984	1,080	27172
\$36,001 - \$37,000	--	--	444	888	984	27173
\$37,001 - \$38,000	--	--	--	444	888	27174
\$38,001 - \$39,000	--	--	--	--	444	27175

For a full-time student who is financially independent and 27176
enrolled in a nonprofit educational institution that is not a 27177
state-assisted institution and that has a certificate of 27178
authorization issued pursuant to Chapter 1713. of the Revised 27179
Code, the amount of the instructional grant for two semesters, 27180
three quarters, or a comparable portion of the academic year shall 27181
be determined in accordance with the following table: 27182

	Private Institution					27183
	Table of Grants					27184
	Maximum Grant \$5,466					27185

Gross Income	Number of Dependents						27186
	0	1	2	3	4	5 or more	27187
\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	27188
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	27189
\$5,301 - \$5,800	4,362	5,196	5,466	5,466	5,466	5,466	27190
\$5,801 - \$6,300	3,828	4,914	5,196	5,466	5,466	5,466	27191
\$6,301 - \$6,800	3,288	4,650	4,914	5,196	5,466	5,466	27192
\$6,801 - \$7,300	2,736	4,380	4,650	4,914	5,196	5,466	27193
\$7,301 - \$8,300	2,178	4,104	4,380	4,650	4,914	5,196	27194
\$8,301 - \$9,300	1,626	3,822	4,104	4,380	4,650	4,914	27195
\$9,301 - \$10,300	1,344	3,546	3,822	4,104	4,380	4,650	27196
\$10,301 - \$11,800	1,080	3,408	3,546	3,822	4,104	4,380	27197
\$11,801 - \$13,300	984	3,276	3,408	3,546	3,822	4,104	27198
\$13,301 - \$14,800	888	3,228	3,276	3,408	3,546	3,822	27199
\$14,801 - \$16,300	444	2,904	3,228	3,276	3,408	3,546	27200
\$16,301 - \$19,300	--	2,136	2,628	2,952	3,276	3,408	27201
\$19,301 - \$22,300	--	1,368	1,866	2,358	2,676	3,000	27202
\$22,301 - \$25,300	--	1,092	1,368	1,866	2,358	2,676	27203
\$25,301 - \$30,300	--	816	1,092	1,368	1,866	2,358	27204
\$30,301 - \$35,300	--	492	540	672	816	1,314	27205

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	27214
Table of Grants	27215
Maximum Grant \$4,632	27216
Gross Income	27217
Number of Dependents	27217

	1	2	3	4	5 or more	27218
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	27219
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632	27220
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632	27221
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632	27222
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632	27223
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182	27224
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684	27225
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222	27226
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790	27227
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292	27228
\$32,001 - \$33,000	852	906	1,134	1,416	1,854	27229
\$33,001 - \$34,000	750	852	906	1,134	1,416	27230
\$34,001 - \$35,000	372	750	852	906	1,134	27231
\$35,001 - \$36,000	--	372	750	852	906	27232
\$36,001 - \$37,000	--	--	372	750	852	27233
\$37,001 - \$38,000	--	--	--	372	750	27234
\$38,001 - \$39,000	--	--	--	--	372	27235

For a full-time student who is financially independent and 27236
 enrolled in an educational institution that holds a certificate of 27237
 registration from the state board of career colleges and schools 27238
 or a private institution exempt from regulation under Chapter 27239
 3332. of the Revised Code as prescribed in section 3333.046 of the 27240
 Revised Code, the amount of the instructional grant for two 27241
 semesters, three quarters, or a comparable portion of the academic 27242
 year shall be determined in accordance with the following table: 27243

Career Institution 27244

Table of Grants 27245

Maximum Grant \$4,632 27246

Gross Income Number of Dependents 27247

	0	1	2	3	4	5 or more	27248
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\$0 - \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	27249
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	27250
\$5,301 - \$5,800	3,684	4,410	4,632	4,632	4,632	4,632	27251
\$5,801 - \$6,300	3,222	4,158	4,410	4,632	4,632	4,632	27252
\$6,301 - \$6,800	2,790	3,930	4,158	4,410	4,632	4,632	27253
\$6,801 - \$7,300	2,292	3,714	3,930	4,158	4,410	4,632	27254
\$7,301 - \$8,300	1,854	3,462	3,714	3,930	4,158	4,410	27255
\$8,301 - \$9,300	1,416	3,246	3,462	3,714	3,930	4,158	27256
\$9,301 - \$10,300	1,134	3,024	3,246	3,462	3,714	3,930	27257
\$10,301 - \$11,800	906	2,886	3,024	3,246	3,462	3,714	27258
\$11,801 - \$13,300	852	2,772	2,886	3,024	3,246	3,462	27259
\$13,301 - \$14,800	750	2,742	2,772	2,886	3,024	3,246	27260
\$14,801 - \$16,300	372	2,466	2,742	2,772	2,886	3,024	27261
\$16,301 - \$19,300	--	1,800	2,220	2,520	2,772	2,886	27262
\$19,301 - \$22,300	--	1,146	1,584	1,986	2,268	2,544	27263
\$22,301 - \$25,300	--	930	1,146	1,584	1,986	2,268	27264
\$25,301 - \$30,300	--	708	930	1,146	1,584	1,986	27265
\$30,301 - \$35,300	--	426	456	570	708	1,116	27266

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							27272
Table of Grants							27273
Maximum Grant \$2,190							27274
Gross Income	Number of Dependents						27275
	1	2	3	4	5 or more		27276
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190		27277
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190		27278
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190		27279
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190		27280

\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	27281
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	27282
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	27283
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	27284
\$28,001 - \$31,000	522	648	864	1,080	1,320	27285
\$31,001 - \$32,000	420	522	648	864	1,080	27286
\$32,001 - \$33,000	384	420	522	648	864	27287
\$33,001 - \$34,000	354	384	420	522	648	27288
\$34,001 - \$35,000	174	354	384	420	522	27289
\$35,001 - \$36,000	--	174	354	384	420	27290
\$36,001 - \$37,000	--	--	174	354	384	27291
\$37,001 - \$38,000	--	--	--	174	354	27292
\$38,001 - \$39,000	--	--	--	--	174	27293

For a full-time student who is financially independent and 27294
enrolled in a state-assisted educational institution, the amount 27295
of the instructional grant for two semesters, three quarters, or a 27296
comparable portion of the academic year shall be determined in 27297
accordance with the following table: 27298

Public Institution 27299

Table of Grants 27300

Maximum Grant \$2,190 27301

Gross Income Number of Dependents 27302

	0	1	2	3	4	5 or more	
\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	27304
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	27305
\$5,301 - \$5,800	1,740	2,082	2,190	2,190	2,190	2,190	27306
\$5,801 - \$6,300	1,542	1,968	2,082	2,190	2,190	2,190	27307
\$6,301 - \$6,800	1,320	1,866	1,968	2,082	2,190	2,190	27308
\$6,801 - \$7,300	1,080	1,758	1,866	1,968	2,082	2,190	27309
\$7,301 - \$8,300	864	1,638	1,758	1,866	1,968	2,082	27310
\$8,301 - \$9,300	648	1,530	1,638	1,758	1,866	1,968	27311
\$9,301 - \$10,300	522	1,422	1,530	1,638	1,758	1,866	27312

\$10,301 - \$11,800	420	1,356	1,422	1,530	1,638	1,758	27313
\$11,801 - \$13,300	384	1,308	1,356	1,422	1,530	1,638	27314
\$13,301 - \$14,800	354	1,290	1,308	1,356	1,422	1,530	27315
\$14,801 - \$16,300	174	1,164	1,290	1,308	1,356	1,422	27316
\$16,301 - \$19,300	--	858	1,050	1,182	1,308	1,356	27317
\$19,301 - \$22,300	--	540	750	948	1,062	1,200	27318
\$22,301 - \$25,300	--	432	540	750	948	1,062	27319
\$25,301 - \$30,300	--	324	432	540	750	948	27320
\$30,301 - \$35,300	--	192	210	264	324	522	27321

(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: 27345

(a) Any student enrolled in an institution that under the 27346
federal law appeals its loss of eligibility for federal financial 27347
aid and the United States secretary of education determines its 27348
cohort default rate after recalculation is lower than the rate 27349
specified in division (F)(1) of this section or the secretary 27350
determines due to mitigating circumstances the institution may 27351
continue to participate in federal financial aid programs. The 27352
board shall adopt rules requiring institutions to provide 27353
information regarding an appeal to the board. 27354

(b) Any student who has previously received a grant under 27355
this section who meets all other requirements of this section. 27356

(3) The board shall adopt rules for the notification of all 27357
institutions whose students will be ineligible to participate in 27358
the grant program pursuant to division (F)(1) of this section. 27359

(4) A student's attendance at an institution whose students 27360
lose eligibility for grants under division (F)(1) of this section 27361
shall not affect that student's eligibility to receive a grant 27362
when enrolled in another institution. 27363

(G) Institutions of higher education that enroll students 27364
receiving instructional grants under this section shall report to 27365
the board all students who have received instructional grants but 27366
are no longer eligible for all or part of such grants and shall 27367
refund any moneys due the state within thirty days after the 27368
beginning of the quarter or term immediately following the quarter 27369
or term in which the student was no longer eligible to receive all 27370
or part of the student's grant. There shall be an interest charge 27371
of one per cent per month on all moneys due and payable after such 27372
thirty-day period. The board shall immediately notify the office 27373
of budget and management and the legislative service commission of 27374
all refunds so received. 27375

Sec. 3333.121. There is hereby established in the state 27376
treasury the ~~instructional grant~~ state need-based financial aid 27377
reconciliation fund, which shall consist of refunds of 27378
instructional grant payments made pursuant to section 3333.12 of 27379
the Revised Code and refunds of state need-based financial aid 27380
payments made pursuant to section 3333.122 of the Revised Code. 27381
Revenues credited to the fund shall be used by the Ohio board of 27382
regents to pay to higher education institutions any outstanding 27383
obligations from the prior year owed for the Ohio instructional 27384
grant program and the Ohio college opportunity grant program that 27385
are identified through the annual reconciliation and financial 27386
audit. Any amount in the fund that is in excess of the amount 27387
certified to the director of budget and management by the board of 27388
regents as necessary to reconcile prior year payments under the 27389
program shall be transferred to the general revenue fund. 27390

Sec. 3333.122. (A) As used in this section: 27391

(1) "Eligible student" means a student who is: 27392

(a) An Ohio resident who first enrolls in an undergraduate 27393
program after July 1, 2006; 27394

(b) Enrolled in either of the following: 27395

(i) An accredited institution of higher education in this 27396
state that meets the requirements of Title VI of the Civil Rights 27397
Act of 1964 and is state-assisted, is nonprofit and has a 27398
certificate of authorization from the Ohio board of regents 27399
pursuant to Chapter 1713. of the Revised Code, has a certificate 27400
of registration from the state board of career colleges and 27401
schools and program authorization to award an associate or 27402
bachelor's degree, or is a private institution exempt from 27403
regulation under Chapter 3332. of the Revised Code as prescribed 27404
in section 3333.046 of the Revised Code. Students who attend an 27405

institution that holds a certificate of registration shall be 27406
enrolled in a program leading to an associate or bachelor's degree 27407
for which associate or bachelor's degree program the institution 27408
has program authorization issued under section 3332.05 of the 27409
Revised Code. 27410

(ii) A technical education program of at least two years 27411
duration sponsored by a private institution of higher education in 27412
this state that meets the requirements of Title VI of the Civil 27413
Rights Act of 1964. 27414

(2) A student who participated in either the early college 27415
high school program administered by the department of education or 27416
in the post-secondary enrollment options program pursuant to 27417
Chapter 3365. of the Revised Code before July 1, 2006, shall not 27418
be excluded from eligibility for a need based grant under this 27419
section. 27420

(3) "Resident," "expected family contribution" or "EFC," 27421
"full-time student," "three-quarters-time student," "half-time 27422
student," "one-quarter-time student," and "accredited" shall be 27423
defined by rules adopted by the board. 27424

(B) The Ohio board of regents shall establish and administer 27425
a needs-based financial aid program based on the United States 27426
department of education's method of determining financial need and 27427
may adopt rules to carry out this section. The program shall be 27428
known as the Ohio college opportunity grant program. The general 27429
assembly shall support the needs-based financial aid program by 27430
such sums and in such manner as it may provide, but the board may 27431
also receive funds from other sources to support the program. If 27432
the amounts available for support of the program are inadequate to 27433
provide grants to all eligible students, preference in the payment 27434
of grants shall be given in terms of expected family contribution, 27435
beginning with the lowest expected family contribution category 27436

and proceeding upward by category to the highest expected family contribution category. 27437
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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. 27439
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A needs-based financial aid grant shall not exceed the total instructional and general charges of the institution. 27461
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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. 27463
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As used in the tables in division (C) of this section: 27468

(1) "Private institution" means an institution that is 27469
nonprofit and has a certificate of authorization from the Ohio 27470
board of regents pursuant to Chapter 1713. of the Revised Code. 27471

(2) "Career college" means either an institution that holds a 27472
certificate of registration from the state board of career 27473
colleges and schools or a private institution exempt from 27474
regulation under Chapter 3332. of the Revised Code as prescribed 27475
in section 3333.046 of the Revised Code. 27476

Full-time students shall be eligible to receive awards 27477
according to the following table: 27478

Full-Time Enrollment 27479

<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>\$300</u>	<u>\$600</u>	<u>\$480</u>	27481
<u>2,001</u>	<u>2,100</u>	<u>402</u>	<u>798</u>	<u>642</u>	27482
<u>1,901</u>	<u>2,000</u>	<u>498</u>	<u>1,002</u>	<u>798</u>	27483
<u>1,801</u>	<u>1,900</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	27484
<u>1,701</u>	<u>1,800</u>	<u>702</u>	<u>1,398</u>	<u>1,122</u>	27485
<u>1,601</u>	<u>1,700</u>	<u>798</u>	<u>1,602</u>	<u>1,278</u>	27486
<u>1,501</u>	<u>1,600</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>	27487
<u>1,401</u>	<u>1,500</u>	<u>1,002</u>	<u>1,998</u>	<u>1,602</u>	27488
<u>1,301</u>	<u>1,400</u>	<u>1,098</u>	<u>2,202</u>	<u>1,758</u>	27489
<u>1,201</u>	<u>1,300</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>	27490
<u>1,101</u>	<u>1,200</u>	<u>1,302</u>	<u>2,598</u>	<u>2,082</u>	27491
<u>1,001</u>	<u>1,100</u>	<u>1,398</u>	<u>2,802</u>	<u>2,238</u>	27492

<u>901</u>	<u>1,000</u>	<u>1,500</u>	<u>3,000</u>	<u>2,400</u>	27493
<u>801</u>	<u>900</u>	<u>1,602</u>	<u>3,198</u>	<u>2,562</u>	27494
<u>701</u>	<u>800</u>	<u>1,698</u>	<u>3,402</u>	<u>2,718</u>	27495
<u>601</u>	<u>700</u>	<u>1,800</u>	<u>3,600</u>	<u>2,280</u>	27496
<u>501</u>	<u>600</u>	<u>1,902</u>	<u>3,798</u>	<u>3,042</u>	27497
<u>401</u>	<u>500</u>	<u>1,998</u>	<u>4,002</u>	<u>3,198</u>	27498
<u>301</u>	<u>400</u>	<u>2,100</u>	<u>4,200</u>	<u>3,360</u>	27499
<u>201</u>	<u>300</u>	<u>2,202</u>	<u>4,398</u>	<u>3,522</u>	27500
<u>101</u>	<u>200</u>	<u>2,298</u>	<u>4,602</u>	<u>3,678</u>	27501
<u>1</u>	<u>100</u>	<u>2,400</u>	<u>4,800</u>	<u>3,840</u>	27502
<u>0</u>	<u>0</u>	<u>2,496</u>	<u>4,992</u>	<u>3,996</u>	27503

Three-quarters-time students shall be eligible to receive awards according to the following table: 27504
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Three-Quarters-Time Enrollment 27506

<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>	27508
<u>2,001</u>	<u>2,100</u>	<u>300</u>	<u>600</u>	<u>480</u>	27509
<u>1,901</u>	<u>2,000</u>	<u>372</u>	<u>750</u>	<u>600</u>	27510
<u>1,801</u>	<u>1,900</u>	<u>450</u>	<u>900</u>	<u>720</u>	27511
<u>1,701</u>	<u>1,800</u>	<u>528</u>	<u>1,050</u>	<u>840</u>	27512
<u>1,601</u>	<u>1,700</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	27513
<u>1,501</u>	<u>1,600</u>	<u>678</u>	<u>1,350</u>	<u>1,080</u>	27514
<u>1,401</u>	<u>1,500</u>	<u>750</u>	<u>1,500</u>	<u>1,200</u>	27515
<u>1,301</u>	<u>1,400</u>	<u>822</u>	<u>1,650</u>	<u>1,320</u>	27516
<u>1,201</u>	<u>1,300</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>	27517
<u>1,101</u>	<u>1,200</u>	<u>978</u>	<u>1,950</u>	<u>1,560</u>	27518

<u>1,001</u>	<u>1,100</u>	<u>1,050</u>	<u>2,100</u>	<u>1,680</u>	27519
<u>901</u>	<u>1,000</u>	<u>1,128</u>	<u>2,250</u>	<u>1,800</u>	27520
<u>801</u>	<u>900</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>	27521
<u>701</u>	<u>800</u>	<u>1,272</u>	<u>2,550</u>	<u>2,040</u>	27522
<u>601</u>	<u>700</u>	<u>1,350</u>	<u>2,700</u>	<u>2,160</u>	27523
<u>501</u>	<u>600</u>	<u>1,428</u>	<u>2,850</u>	<u>2,280</u>	27524
<u>401</u>	<u>500</u>	<u>1,500</u>	<u>3,000</u>	<u>2,400</u>	27525
<u>301</u>	<u>400</u>	<u>1,578</u>	<u>3,150</u>	<u>2,520</u>	27526
<u>201</u>	<u>300</u>	<u>1,650</u>	<u>3,300</u>	<u>2,640</u>	27527
<u>101</u>	<u>200</u>	<u>1,722</u>	<u>3,450</u>	<u>2,760</u>	27528
<u>1</u>	<u>100</u>	<u>1,800</u>	<u>3,600</u>	<u>2,880</u>	27529
<u>0</u>	<u>0</u>	<u>1,872</u>	<u>3,744</u>	<u>3,000</u>	27530

Half-time students shall be eligible to receive awards 27531

according to the following table: 27532

Half-Time Enrollment 27533

<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>	27534
<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>	27535
<u>2,001</u>	<u>2,100</u>	<u>204</u>	<u>402</u>	<u>324</u>	27536
<u>1,901</u>	<u>2,000</u>	<u>252</u>	<u>504</u>	<u>402</u>	27537
<u>1,801</u>	<u>1,900</u>	<u>300</u>	<u>600</u>	<u>480</u>	27538
<u>1,701</u>	<u>1,800</u>	<u>354</u>	<u>702</u>	<u>564</u>	27539
<u>1,601</u>	<u>1,700</u>	<u>402</u>	<u>804</u>	<u>642</u>	27540
<u>1,501</u>	<u>1,600</u>	<u>450</u>	<u>900</u>	<u>720</u>	27541
<u>1,401</u>	<u>1,500</u>	<u>504</u>	<u>1,002</u>	<u>804</u>	27542
<u>1,301</u>	<u>1,400</u>	<u>552</u>	<u>1,104</u>	<u>882</u>	27543
<u>1,201</u>	<u>1,300</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	27544

<u>1,101</u>	<u>1,200</u>	<u>654</u>	<u>1,302</u>	<u>1,044</u>	27545
<u>1,001</u>	<u>1,100</u>	<u>702</u>	<u>1,404</u>	<u>1,122</u>	27546
<u>901</u>	<u>1,000</u>	<u>750</u>	<u>1,500</u>	<u>1,200</u>	27547
<u>801</u>	<u>900</u>	<u>804</u>	<u>1,602</u>	<u>1,284</u>	27548
<u>701</u>	<u>800</u>	<u>852</u>	<u>1,704</u>	<u>1,362</u>	27549
<u>601</u>	<u>700</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>	27550
<u>501</u>	<u>600</u>	<u>954</u>	<u>1,902</u>	<u>1,524</u>	27551
<u>401</u>	<u>500</u>	<u>1,002</u>	<u>2,004</u>	<u>1,602</u>	27552
<u>301</u>	<u>400</u>	<u>1,050</u>	<u>2,100</u>	<u>1,680</u>	27553
<u>201</u>	<u>300</u>	<u>1,104</u>	<u>2,202</u>	<u>1,764</u>	27554
<u>101</u>	<u>200</u>	<u>1,152</u>	<u>2,304</u>	<u>1,842</u>	27555
<u>1</u>	<u>100</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>	27556
<u>0</u>	<u>0</u>	<u>1,248</u>	<u>2,496</u>	<u>1,998</u>	27557

One-quarter-time students shall be eligible to receive awards 27558

according to the following table: 27559

One-Quarter-Time Enrollment 27560

<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>	27562
<u>2,001</u>	<u>2,100</u>	<u>102</u>	<u>198</u>	<u>162</u>	27563
<u>1,901</u>	<u>2,000</u>	<u>126</u>	<u>252</u>	<u>198</u>	27564
<u>1,801</u>	<u>1,900</u>	<u>150</u>	<u>300</u>	<u>240</u>	27565
<u>1,701</u>	<u>1,800</u>	<u>174</u>	<u>348</u>	<u>282</u>	27566
<u>1,601</u>	<u>1,700</u>	<u>198</u>	<u>402</u>	<u>318</u>	27567
<u>1,501</u>	<u>1,600</u>	<u>228</u>	<u>450</u>	<u>360</u>	27568
<u>1,401</u>	<u>1,500</u>	<u>252</u>	<u>498</u>	<u>402</u>	27569
<u>1,301</u>	<u>1,400</u>	<u>276</u>	<u>552</u>	<u>438</u>	27570

<u>1,201</u>	<u>1,300</u>	<u>300</u>	<u>600</u>	<u>480</u>	27571
<u>1,101</u>	<u>1,200</u>	<u>324</u>	<u>648</u>	<u>522</u>	27572
<u>1,001</u>	<u>1,100</u>	<u>348</u>	<u>702</u>	<u>558</u>	27573
<u>901</u>	<u>1,000</u>	<u>378</u>	<u>750</u>	<u>600</u>	27574
<u>801</u>	<u>900</u>	<u>402</u>	<u>798</u>	<u>642</u>	27575
<u>701</u>	<u>800</u>	<u>426</u>	<u>852</u>	<u>678</u>	27576
<u>601</u>	<u>700</u>	<u>450</u>	<u>900</u>	<u>720</u>	27577
<u>501</u>	<u>600</u>	<u>474</u>	<u>948</u>	<u>762</u>	27578
<u>401</u>	<u>500</u>	<u>498</u>	<u>1,002</u>	<u>798</u>	27579
<u>301</u>	<u>400</u>	<u>528</u>	<u>1,050</u>	<u>840</u>	27580
<u>201</u>	<u>300</u>	<u>552</u>	<u>1,098</u>	<u>882</u>	27581
<u>101</u>	<u>200</u>	<u>576</u>	<u>1,152</u>	<u>918</u>	27582
<u>1</u>	<u>100</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	27583
<u>0</u>	<u>0</u>	<u>624</u>	<u>1,248</u>	<u>1,002</u>	27584

(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. 27585
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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. 27594
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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 27599
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the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 27603
20 U.S.C.A. 1085, as amended, as of the fifteenth day of June 27604
preceding the fiscal year, equal to or greater than thirty per 27605
cent for each of the preceding two fiscal years. 27606

(2) Division (F)(1) of this section does not apply to the 27607
following: 27608

(a) Any student enrolled in an institution that under the 27609
federal law appeals its loss of eligibility for federal financial 27610
aid and the United States secretary of education determines its 27611
cohort default rate after recalculation is lower than the rate 27612
specified in division (F)(1) of this section or the secretary 27613
determines due to mitigating circumstances the institution may 27614
continue to participate in federal financial aid programs. The 27615
board shall adopt rules requiring institutions to provide 27616
information regarding an appeal to the board. 27617

(b) Any student who has previously received a grant under 27618
this section who meets all other requirements of this section. 27619

(3) The board shall adopt rules for the notification of all 27620
institutions whose students will be ineligible to participate in 27621
the grant program pursuant to division (F)(1) of this section. 27622

(4) A student's attendance at an institution whose students 27623
lose eligibility for grants under division (F)(1) of this section 27624
shall not affect that student's eligibility to receive a grant 27625
when enrolled in another institution. 27626

(G) Institutions of higher education that enroll students 27627
receiving needs-based financial aid grants under this section 27628
shall report to the board all students who have received 27629
needs-based financial aid grants but are no longer eligible for 27630
all or part of such grants and shall refund any moneys due the 27631
state within thirty days after the beginning of the quarter or 27632
term immediately following the quarter or term in which the 27633

student was no longer eligible to receive all or part of the 27634
student's grant. There shall be an interest charge of one per cent 27635
per month on all moneys due and payable after such thirty-day 27636
period. The board shall immediately notify the office of budget 27637
and management and the legislative service commission of all 27638
refunds so received. 27639

Sec. 3333.162. (A) As used in this section, "state 27640
institution of higher education" means an institution of higher 27641
education as defined in section 3345.12 of the Revised Code. 27642

(B) By April 15, 2007, the Ohio board of regents, in 27643
consultation with the department of education, public adult and 27644
secondary career-technical education institutions, and 27645
institutions of higher education, shall establish criteria, 27646
policies, and procedures that enable students to transfer 27647
technical courses completed through an adult career-technical 27648
education institution or a public secondary career-technical 27649
institution to a state institution of higher education that offers 27650
such programs without unnecessary duplication or institutional 27651
barriers. The courses to which the criteria, policies, and 27652
procedures apply shall be those that adhere to recognized industry 27653
standards and equivalent coursework common to the secondary career 27654
pathway and adult career-technical education system and regionally 27655
accredited state institutions of higher education. Where 27656
applicable, the policies and procedures shall build upon the 27657
articulation agreement and transfer initiative course equivalency 27658
system required by section 3333.16 of the Revised Code. 27659

(C) By April 15, 2006, the board shall report to the general 27660
assembly on its progress in establishing these policies and 27661
procedures. 27662

Sec. 3333.27. As used in this section: 27663

(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 27695
academic record that meets or exceeds the standard established by 27696
the board. 27697

A grant awarded to an eligible student shall be paid to the 27698
institution in which the student is enrolled, and the institution 27699
shall reduce the student's instructional and general charges by 27700
the amount of the grant. Each grant awarded shall be prorated and 27701
paid in equal installments at the time of enrollment for each term 27702
of the academic year for which the grant is awarded. No student 27703
shall be eligible to receive a grant for more than ten semesters, 27704
fifteen quarters, or the equivalent of five academic years. 27705

The receipt of an Ohio student choice grant shall not affect 27706
a student's eligibility for assistance, or the amount of such 27707
assistance, granted under section 3315.33, 3333.12, 3333.122, 27708
3333.22, 3333.26, 5910.03, 5910.032, or 5919.34 of the Revised 27709
Code. If a student receives assistance under one or more of such 27710
sections, the student choice grant made to the student shall not 27711
exceed the difference between the amount of assistance received 27712
under such sections and the total instructional and general 27713
charges of the institution in which the student is enrolled. 27714

The general assembly shall support the student choice grant 27715
program by such sums and in such manner as it may provide, but the 27716
board may also receive funds from other sources to support the 27717
program. 27718

No grant shall be made to any student enrolled in a course of 27719
study leading to a degree in theology, religion, or other field of 27720
preparation for a religious profession unless the course of study 27721
leads to an accredited bachelor of arts or bachelor of science 27722
degree. 27723

Institutions of higher education that enroll students 27724
receiving grants under this section shall report to the board the 27725

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.

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.

(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.

(C) The board of regents shall adopt rules in accordance with
Chapter 119. of the Revised Code establishing:

(1) Eligibility criteria for receipt of a loan;

(2) Loan application procedures;	27756
(3) The amounts in which loans may be made and the total amount that may be loaned to an individual;	27757 27758
(4) The total amount of loans that can be made each year;	27759
(5) The percentage of the money in the fund that must remain in the fund at all times as a fund balance;	27760 27761
(6) Interest and principal repayment schedules;	27762
(7) Conditions under which a portion of principal and interest obligations incurred by an individual under the program will be forgiven;	27763 27764 27765
(8) Ways that the program may be used to encourage individuals who are members of minority groups to enter the nursing profession;	27766 27767 27768
(9) Any other matters incidental to the operation of the program.	27769 27770
(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.	27771 27772 27773 27774 27775
(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.	27776 27777 27778 27779 27780 27781 27782
Sec. 3333.36. <u>The Provided that sufficient unencumbered and unexpended funds are available from general revenue fund</u>	27783 27784

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.

Sec. 3333.38. (A) As used in this section: 27794

(1) "Institution of higher education" includes all of the
following: 27795
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(a) A state institution of higher education, as defined in
section 3345.011 of the Revised Code; 27797
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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; 27799
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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; 27802
27803
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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. 27805
27806
27807

(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. 27808
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(B) An individual who is convicted of, pleads guilty to, or 27814

is adjudicated a delinquent child for one of the following 27815
violations shall be ineligible to receive any student financial 27816
assistance supported by state funds at an institution of higher 27817
education for two calendar years from the time the individual 27818
applies for assistance of that nature: 27819

(1) A violation of section 2917.02 or 2917.03 of the Revised 27820
Code; 27821

(2) A violation of section 2917.04 of the Revised Code that 27822
is a misdemeanor of the fourth degree; 27823

(3) A violation of section 2917.13 of the Revised Code that 27824
is a misdemeanor of the fourth or first degree and occurs within 27825
the proximate area where four or more others are acting in a 27826
course of conduct in violation of section 2917.11 of the Revised 27827
Code. 27828

(C) If an individual is convicted of, pleads guilty to, or is 27829
adjudicated a delinquent child for committing a violation of 27830
section 2917.02 or 2917.03 of the Revised Code, and if the 27831
individual is enrolled in a state-supported institution of higher 27832
education, the institution in which the individual is enrolled 27833
shall immediately dismiss the individual. No state-supported 27834
institution of higher education shall admit an individual of that 27835
nature for one academic year after the individual applies for 27836
admission to a state-supported institution of higher education. 27837
This division does not limit or affect the ability of a 27838
state-supported institution of higher education to suspend or 27839
otherwise discipline its students. 27840

Sec. 3334.01. As used in this chapter: 27841

(A) "Aggregate original principal amount" means the aggregate 27842
of the initial offering prices to the public of college savings 27843
bonds, exclusive of accrued interest, if any. "Aggregate original 27844

principal amount" does not mean the aggregate accreted amount 27845
payable at maturity or redemption of such bonds. 27846

(B) "Beneficiary" means: 27847

(1) An individual designated by the purchaser under a tuition 27848
payment contract or through a scholarship program as the 27849
individual on whose behalf tuition ~~credits~~ units purchased under 27850
the contract or awarded through the scholarship program will be 27851
applied toward the payment of undergraduate, graduate, or 27852
professional tuition; or 27853

(2) An individual designated by the contributor under a 27854
variable college savings program contract as the individual whose 27855
tuition and other higher education expenses will be paid from a 27856
variable college savings program account. 27857

(C) "Capital appreciation bond" means a bond for which the 27858
following is true: 27859

(1) The principal amount is less than the amount payable at 27860
maturity or early redemption; and 27861

(2) No interest is payable on a current basis. 27862

(D) "Tuition ~~credit~~ unit" means a credit of the Ohio tuition 27863
trust authority purchased under section 3334.09 of the Revised 27864
Code. "Tuition unit" includes a tuition credit purchased prior to 27865
July 1, 1994. 27866

(E) "College savings bonds" means revenue and other 27867
obligations issued on behalf of the state or any agency or issuing 27868
authority thereof as a zero-coupon or capital appreciation bond, 27869
and designated as college savings bonds as provided in this 27870
chapter. "College savings bond issue" means any issue of bonds of 27871
which any part has been designated as college savings bonds. 27872

(F) "Institution of higher education" means a state 27873
institution of higher education, a private college, university, or 27874

other postsecondary institution located in this state that 27875
possesses a certificate of authorization issued by the Ohio board 27876
of regents pursuant to Chapter 1713. of the Revised Code or a 27877
certificate of registration issued by the state board of career 27878
colleges and schools under Chapter 3332. of the Revised Code, or 27879
an accredited college, university, or other postsecondary 27880
institution located outside this state that is accredited by an 27881
accrediting organization or professional association recognized by 27882
the authority. To be considered an institution of higher 27883
education, an institution shall meet the definition of an eligible 27884
educational institution under section 529 of the Internal Revenue 27885
Code. 27886

(G) "Issuing authority" means any authority, commission, 27887
body, agency, or individual empowered by the Ohio Constitution or 27888
the Revised Code to issue bonds or any other debt obligation of 27889
the state or any agency or department thereof. "Issuer" means the 27890
issuing authority or, if so designated under division (B) of 27891
section 3334.04 of the Revised Code, the treasurer of state. 27892

(H) "Tuition" means the charges imposed to attend an 27893
institution of higher education as an undergraduate, graduate, or 27894
professional student and all fees required as a condition of 27895
enrollment, as determined by the Ohio tuition trust authority. 27896
"Tuition" does not include laboratory fees, room and board, or 27897
other similar fees and charges. 27898

(I) "Weighted average tuition" means the tuition cost 27899
resulting from the following calculation: 27900

(1) Add the products of the annual undergraduate tuition 27901
charged to Ohio residents at each four-year state university 27902
multiplied by that institution's total number of undergraduate 27903
fiscal year equated students; and 27904

(2) Divide the gross total of the products from division 27905

(I)(1) of this section by the total number of undergraduate fiscal 27906
year equated students attending four-year state universities. 27907

When making this calculation, the "annual undergraduate 27908
tuition charged to Ohio residents" shall not incorporate any 27909
tuition reductions that vary in amount among individual recipients 27910
and that are awarded to Ohio residents based upon their particular 27911
circumstances, beyond any minimum amount awarded uniformly to all 27912
Ohio residents. In addition, any tuition reductions awarded 27913
uniformly to all Ohio residents shall be incorporated into this 27914
calculation. 27915

(J) "Zero-coupon bond" means a bond which has a stated 27916
interest rate of zero per cent and on which no interest is payable 27917
until the maturity or early redemption of the bond, and is offered 27918
at a substantial discount from its original stated principal 27919
amount. 27920

(K) "State institution of higher education" includes the 27921
state universities listed in section 3345.011 of the Revised Code, 27922
community colleges created pursuant to Chapter 3354. of the 27923
Revised Code, university branches created pursuant to Chapter 27924
3355. of the Revised Code, technical colleges created pursuant to 27925
Chapter 3357. of the Revised Code, state community colleges 27926
created pursuant to Chapter 3358. of the Revised Code, the medical 27927
university of Ohio at Toledo, and the northeastern Ohio 27928
universities college of medicine. 27929

(L) "Four-year state university" means those state 27930
universities listed in section 3345.011 of the Revised Code. 27931

(M) "Principal amount" refers to the initial offering price 27932
to the public of an obligation, exclusive of the accrued interest, 27933
if any. "Principal amount" does not refer to the aggregate 27934
accrued amount payable at maturity or redemption of an 27935
obligation. 27936

(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 27967
elementary and secondary students in this state to achieve 27968
academic excellence, and to promote a well-educated and 27969
financially secure population to the ultimate benefit of all 27970
citizens of the state of Ohio, there is hereby created the Ohio 27971
college savings program. The program shall consist of the issuance 27972
of college savings bonds and the sale of tuition ~~credits and, if~~ 27973
~~offered, supplemental credits~~ units. 27974

(B) The provisions of Chapter 1707. of the Revised Code shall 27975
not apply to tuition ~~credits~~ units or any agreement or transaction 27976
related thereto. 27977

(C) To provide the citizens of Ohio with a choice of 27978
tax-advantaged college savings programs and the opportunity to 27979
participate in more than one type of college savings program at a 27980
time, the Ohio tuition trust authority shall establish and 27981
administer a variable college savings program as a qualified state 27982
tuition program under section 529 of the Internal Revenue Code. 27983
The program shall allow contributors to make cash contributions to 27984
variable college savings program accounts created for the purpose 27985
of paying future tuition and other higher education expenses and 27986
providing variable rates of return on contributions. 27987

(D) A person may participate simultaneously in both the Ohio 27988
college savings program and the variable college savings program. 27989

Sec. 3334.03. (A) There is hereby created the Ohio tuition 27990
trust authority, which shall have the powers enumerated in this 27991
chapter and which shall operate as a qualified state tuition 27992
program within the meaning of section 529 of the Internal Revenue 27993
Code. The exercise by the authority of its powers shall be and is 27994
hereby declared an essential state governmental function. The 27995
authority is subject to all provisions of law generally applicable 27996
to state agencies which do not conflict with the provisions of 27997

this chapter. 27998

(B) The Ohio tuition trust authority shall consist of eleven 27999
members, no more than six of whom shall be of the same political 28000
party. Six members shall be appointed by the governor with the 28001
advice and consent of the senate as follows: one shall represent 28002
state institutions of higher education, one shall represent 28003
private nonprofit colleges and universities located in Ohio, one 28004
shall have experience in the field of marketing or public 28005
relations, one shall have experience in the field of information 28006
systems design or management, and two shall have experience in the 28007
field of banking, investment banking, insurance, or law. Four 28008
members shall be appointed by the speaker of the house of 28009
representatives and the president of the senate as follows: the 28010
speaker of the house of representatives shall appoint one member 28011
of the house from each political party and the president of the 28012
senate shall appoint one member of the senate from each political 28013
party. The chancellor of the board of regents shall be an ex 28014
officio voting member; provided, however, that the chancellor may 28015
designate a vice-chancellor of the board of regents to serve as 28016
the chancellor's representative. The political party of the 28017
chancellor shall be deemed the political party of the designee for 28018
purposes of determining that no more than six members are of the 28019
same political party. 28020

Initial gubernatorial appointees to the authority shall serve 28021
staggered terms, with two terms expiring on January 31, 1991, one 28022
term expiring on January 31, 1992, and one term expiring on 28023
January 31, 1993. The governor shall appoint two additional 28024
members to the authority no later than thirty days after ~~the~~ 28025
~~effective date of this amendment~~ March 30, 1999, and their initial 28026
terms shall expire January 31, 2002. Thereafter, terms of office 28027
for gubernatorial appointees shall be for four years. The initial 28028
terms of the four legislative members shall expire on January 31, 28029

1991. Thereafter legislative members shall serve two-year terms, 28030
provided that legislative members may continue to serve on the 28031
authority only if they remain members of the general assembly. Any 28032
vacancy on the authority shall be filled in the same manner as the 28033
original appointment, except that any person appointed to fill a 28034
vacancy shall be appointed to the remainder of the unexpired term. 28035
Any member is eligible for reappointment. 28036

(C) Any member may be removed by the appointing authority for 28037
misfeasance, malfeasance, or willful neglect of duty or for other 28038
cause after notice and a public hearing, unless the notice and 28039
hearing are waived in writing by the member. Members shall serve 28040
without compensation but shall receive their reasonable and 28041
necessary expenses incurred in the conduct of authority business. 28042

(D) The speaker of the house of representatives and the 28043
president of the senate shall each designate a member of the 28044
authority to serve as co-chairpersons. The six gubernatorial 28045
appointees and the chancellor of the board of regents or the 28046
chancellor's designee shall serve as the executive committee of 28047
the authority, and shall elect an executive chairperson from among 28048
the executive committee members. The authority and the executive 28049
committee may elect such other officers as determined by the 28050
authority or the executive committee respectively. The authority 28051
shall meet at least annually at the call of either co-chairperson 28052
and at such other times as either co-chairperson or the authority 28053
determines necessary. In the absence of both co-chairpersons, the 28054
executive chairperson shall serve as the presiding officer of the 28055
authority. The executive committee shall meet at the call of the 28056
executive chairperson or as the executive committee determines 28057
necessary. The authority may delegate to the executive committee 28058
such duties and responsibilities as the authority determines 28059
appropriate, except that the authority may not delegate to the 28060
executive committee the final determination of the annual price of 28061

a tuition ~~credit~~ unit, the final designation of bonds as college 28062
savings bonds, or the employment of an executive director of the 28063
authority. Upon such delegation, the executive committee shall 28064
have the authority to act pursuant to such delegation without 28065
further approval or action by the authority. A majority of the 28066
authority shall constitute a quorum of the authority, and the 28067
affirmative vote of a majority of the members present shall be 28068
necessary for any action taken by the authority. A majority of the 28069
executive committee shall constitute a quorum of the executive 28070
committee, and the affirmative vote of a majority of the members 28071
present shall be necessary for any action taken by the executive 28072
committee. No vacancy in the membership of the authority or the 28073
executive committee shall impair the rights of a quorum to 28074
exercise all rights and perform all duties of the authority or the 28075
executive committee respectively. 28076

Sec. 3334.07. (A) The Ohio tuition trust authority shall 28077
develop a plan for the sale of tuition ~~credits~~ units. The Ohio 28078
board of regents shall cooperate with the authority and provide 28079
technical assistance upon request. 28080

(B) Annually, the authority shall determine the weighted 28081
average tuition of four-year state universities in the academic 28082
year that begins on or after the first day of August of the 28083
current calendar year, and shall establish the price of a tuition 28084
~~credit~~ unit in the ensuing sales period. Such price shall be based 28085
on sound actuarial principles, and shall, to the extent 28086
actuarially possible, reasonably approximate one per cent of the 28087
weighted average tuition for that academic year plus the costs of 28088
administering the ~~tuition-credit~~ program that are in excess of 28089
general revenue fund appropriations for administrative costs. The 28090
sales period to which such price applies shall consist of twelve 28091
months, and the authority by rule shall establish the date on 28092

which the sales period begins. If circumstances arise during a 28093
sales period that the authority determines causes the price of 28094
tuition ~~credits~~ units to be insufficient to ensure the actuarial 28095
soundness of the Ohio tuition trust fund, the authority may adjust 28096
the price of tuition ~~credits~~ units purchased during the remainder 28097
of the sales period. To promote the purchase of tuition ~~credits~~ 28098
units and in accordance with actuarially sound principles, the 28099
authority may adjust the sales price as part of incentive 28100
programs, such as discounting for ~~lump-sum~~ lump sum purchases and 28101
multi-year installment plans at a fixed rate of purchase. 28102

Sec. 3334.08. (A) Subject to division (B) of this section, in 28103
addition to any other powers conferred by this chapter, the Ohio 28104
tuition trust authority may do any of the following: 28105

(1) Impose reasonable residency requirements for 28106
beneficiaries of tuition ~~credits~~ units; 28107

(2) Impose reasonable limits on the number of tuition ~~credit~~ 28108
unit participants; 28109

(3) Impose and collect administrative fees and charges in 28110
connection with any transaction under this chapter; 28111

(4) Purchase insurance from insurers licensed to do business 28112
in this state providing for coverage against any loss in 28113
connection with the authority's property, assets, or activities or 28114
to further ensure the value of tuition ~~credits~~ units; 28115

(5) Indemnify or purchase policies of insurance on behalf of 28116
members, officers, and employees of the authority from insurers 28117
licensed to do business in this state providing for coverage for 28118
any liability incurred in connection with any civil action, 28119
demand, or claim against a director, officer, or employee by 28120
reason of an act or omission by the director, officer, or employee 28121
that was not manifestly outside the scope of the employment or 28122

official duties of the director, officer, or employee or with	28123
malicious purpose, in bad faith, or in a wanton or reckless	28124
manner;	28125
(6) Make, execute, and deliver contracts, conveyances, and	28126
other instruments necessary to the exercise and discharge of the	28127
powers and duties of the authority;	28128
(7) Promote, advertise, and publicize the Ohio college	28129
savings program and the variable college savings program;	28130
(8) Adopt rules under section 111.15 of the Revised Code for	28131
the implementation of the Ohio college savings program;	28132
(9) Contract, for the provision of all or part of the	28133
services necessary for the management and operation of the Ohio	28134
college savings program and the variable college savings program,	28135
with a bank, trust company, savings and loan association,	28136
insurance company, or licensed dealer in securities if the bank,	28137
company, association, or dealer is authorized to do business in	28138
this state and information about the contract is filed with the	28139
controlling board pursuant to division (D)(6) of section 127.16 of	28140
the Revised Code;	28141
(10) Contract for other services, or for goods, needed by the	28142
authority in the conduct of its business, including but not	28143
limited to credit card services;	28144
(11) Employ an executive director and other personnel as	28145
necessary to carry out its responsibilities under this chapter,	28146
and fix the compensation of these persons. All employees of the	28147
authority shall be in the unclassified civil service and shall be	28148
eligible for membership in the public employees retirement system.	28149
(12) Contract with financial consultants, actuaries,	28150
auditors, and other consultants as necessary to carry out its	28151
responsibilities under this chapter;	28152

(13) Enter into agreements with any agency of the state or 28153
its political subdivisions or with private employers under which 28154
an employee may agree to have a designated amount deducted in each 28155
payroll period from the wages or salary due the employee for the 28156
purpose of purchasing tuition ~~credits~~ units pursuant to a tuition 28157
payment contract or making contributions pursuant to a variable 28158
college savings program contract; 28159

(14) Enter into an agreement with the treasurer of state 28160
under which the treasurer of state will receive, and credit to the 28161
Ohio tuition trust fund or variable college savings program fund, 28162
from any bank or savings and loan association authorized to do 28163
business in this state, amounts that a depositor of the bank or 28164
association authorizes the bank or association to withdraw 28165
periodically from the depositor's account for the purpose of 28166
purchasing tuition ~~credits~~ units pursuant to a tuition payment 28167
contract or making contributions pursuant to a variable college 28168
savings program contract; 28169

(15) Solicit and accept gifts, grants, and loans from any 28170
person or governmental agency and participate in any governmental 28171
program; 28172

(16) Impose limits on the number of ~~credits~~ units which may 28173
be purchased on behalf of or assigned or awarded to any 28174
beneficiary and on the total amount of contributions that may be 28175
made on behalf of a beneficiary; 28176

(17) Impose restrictions on the substitution of another 28177
individual for the original beneficiary under the Ohio college 28178
savings program; 28179

(18) Impose a limit on the age of a beneficiary, above which 28180
tuition ~~credits~~ units may not be purchased on behalf of that 28181
beneficiary; 28182

(19) Enter into a cooperative agreement with the treasurer of 28183

state to provide for the direct disbursement of payments under 28184
tuition payment or variable college savings program contracts; 28185

(20) Determine the other higher education expenses for which 28186
tuition ~~credits~~ units or contributions may be used; 28187

(21) Terminate any tuition payment or variable college 28188
savings program contract if no purchases or contributions are made 28189
for a period of three years or more and there are fewer than a 28190
total of five tuition units ~~or tuition credits~~ or less than a 28191
dollar amount set by rule on account, provided that notice of a 28192
possible termination shall be provided in advance, explaining any 28193
options to prevent termination, and a reasonable amount of time 28194
shall be provided within which to act to prevent a termination; 28195

(22) Maintain a separate account for each tuition payment or 28196
variable college savings program contract; 28197

(23) Perform all acts necessary and proper to carry out the 28198
duties and responsibilities of the authority pursuant to this 28199
chapter. 28200

(B) The authority shall adopt rules under section 111.15 of 28201
the Revised Code for the implementation and administration of the 28202
variable college savings program. The rules shall provide 28203
taxpayers with the maximum tax advantages and flexibility 28204
consistent with section 529 of the Internal Revenue Code and 28205
regulations adopted thereunder with regard to disposition of 28206
contributions and earnings, designation of beneficiaries, and 28207
rollover of account assets to other programs. 28208

(C) Except as otherwise specified in this chapter, the 28209
provisions of Chapters 123., 125., and 4117. of the Revised Code 28210
shall not apply to the authority. The department of administrative 28211
services shall, upon the request of the authority, act as the 28212
authority's agent for the purchase of equipment, supplies, 28213
insurance, or services, or the performance of administrative 28214

services pursuant to Chapter 125. of the Revised Code.

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Sec. 3334.09. (A) Except in the case of a scholarship program established in accordance with section 3334.17 of the Revised Code, the Ohio tuition trust authority may enter into a tuition payment contract with any person for the purchase of tuition ~~credits~~ units if either the purchaser or the beneficiary is a resident of this state at the time the contract is entered into. A tuition payment contract shall allow any person to purchase tuition ~~credits~~ units at the price determined by the authority pursuant to section 3334.07 or 3334.12 of the Revised Code for the year in which the tuition ~~credit~~ unit is purchased. The purchaser shall name in the payment contract one specific individual as the beneficiary for the tuition ~~credits~~ units.

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In accordance with rules of the authority, ~~credits~~ units may be transferred to the credit of another beneficiary and a new beneficiary may be substituted for the beneficiary originally named in the contract.

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(B) Each tuition ~~credit~~ unit shall entitle the beneficiary to an amount equal to one per cent of the weighted average tuition.

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(C) Nothing in this chapter or in any tuition payment contract entered into pursuant to this chapter shall be construed as a guarantee by the state, the authority, or any institution of higher education that a beneficiary will be admitted to an institution of higher education, or, upon admission to an institution of higher education, will be permitted to continue to attend or will receive a degree from an institution of higher education. Nothing in this chapter or in any tuition payment contract entered into pursuant to this chapter shall be considered a guarantee that the beneficiary's cost of tuition at an institution of higher education other than a state institution of higher education will be covered in full by the proceeds of the

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beneficiary's tuition credits <u>units</u> .	28246
(D) The following information shall be disclosed in writing	28247
to each purchaser of tuition credits <u>units</u> and, where appropriate,	28248
to each entity establishing a scholarship program under section	28249
3334.17 of the Revised Code:	28250
(1) The terms and conditions for the purchase and use of	28251
tuition credits <u>units</u> ;	28252
(2) In the case of a contract described by division (A) of	28253
this section, any restrictions on the substitution of another	28254
individual for the original beneficiary and any restrictions on	28255
the transfer of ownership of credits <u>units</u> in the payment account;	28256
(3) The person or entity entitled to terminate the contract;	28257
(4) The terms and conditions under which the contract may be	28258
terminated and the amount of the refund, if any, to which the	28259
person or entity terminating the contract, or that person's or	28260
entity's designee, is entitled upon termination;	28261
(5) The obligation of the authority to make payments to a	28262
beneficiary, or an institution of higher education on behalf of a	28263
beneficiary, under division (B) of this section based upon the	28264
number of tuition credits <u>units</u> purchased on behalf of the	28265
beneficiary or awarded to the beneficiary pursuant to a	28266
scholarship program;	28267
(6) The method by which tuition credits <u>units</u> shall be	28268
applied toward payment of tuition and other higher education	28269
expenses if in any academic term the beneficiary is a part-time	28270
student;	28271
(7) The period of time during which a beneficiary may receive	28272
benefits under the contract;	28273
(8) The terms and conditions under which money may be wholly	28274
or partially withdrawn from the program, including, but not	28275

limited to, any reasonable charges and fees that may be imposed 28276
for withdrawal; 28277

(9) All other rights and obligations of the purchaser and the 28278
authority, including the provisions of division (A) of section 28279
3334.12 of the Revised Code, and any other terms, conditions, and 28280
provisions the authority considers necessary and appropriate. 28281

(E) A tuition payment contract may provide that the authority 28282
will pay directly to the institution of higher education in which 28283
a beneficiary is enrolled during a term the amount represented by 28284
the tuition ~~credits~~ units being used that term. 28285

(F) A tuition payment contract described by division (A) of 28286
this section may provide that if the contract has not been 28287
terminated or ~~credits~~ units purchased under the contract have not 28288
been applied toward the payment of tuition or other higher 28289
education expenses within a specified period of time, the 28290
authority may, after making a reasonable effort to locate the 28291
purchaser of the tuition ~~credits~~ units, the beneficiary, and any 28292
person designated in the contract to act on behalf of the 28293
purchaser of the ~~credits~~ units or the beneficiary, terminate the 28294
contract and retain the amounts payable under the contract. 28295

(G) If, at any time after tuition ~~credits~~ units are purchased 28296
on behalf of a beneficiary or awarded to a beneficiary or pursuant 28297
to a scholarship program, the beneficiary becomes a nonresident of 28298
this state, or, if the beneficiary was not a resident of this 28299
state at the time the tuition payment contract was entered into, 28300
the purchaser becomes a nonresident of this state, ~~credits~~ units 28301
purchased or awarded while the beneficiary was a resident may be 28302
applied on behalf of the beneficiary toward the payment of tuition 28303
at an institution of higher education and other higher education 28304
expenses in the manner specified in division (B) of this section, 28305
except that if the beneficiary enrolls in a state institution of 28306

higher education, the beneficiary shall be responsible for payment 28307
of all nonresident fees charged to out-of-state residents by the 28308
institution in which the beneficiary is enrolled. 28309

Sec. 3334.10. Divisions (A), and (B), ~~(C), and (D)~~ of this 28310
section do not apply to scholarship programs established under 28311
section 3334.17 of the Revised Code. 28312

(A) Unless otherwise provided for in the ~~contract, a~~ tuition 28313
payment contract ~~may be terminated by the purchaser under any of~~ 28314
~~the following circumstances upon the written request of the~~ 28315
~~purchaser to the authority:~~ 28316

~~(1) Upon the death or permanent disability of the~~ 28317
~~beneficiary;~~ 28318

~~(2) Upon notification to the Ohio tuition trust authority in~~ 28319
~~writing that the beneficiary is age eighteen or older, has decided~~ 28320
~~not to attend an institution of higher education, and requests~~ 28321
~~that the contract be terminated;~~ 28322

~~(3) Upon the beneficiary's completion of the degree~~ 28323
~~requirements at an institution of higher education;~~ 28324

~~(4) Upon the rollover of all amounts in a tuition credit~~ 28325
~~account to an equivalent account in another state;~~ 28326

~~(5) Upon the occurrence of other circumstances determined by~~ 28327
~~the authority to be grounds for termination.~~ 28328

~~(B) The authority shall determine the method and schedule for~~ 28329
~~payment of refunds upon termination of a tuition payment contract.~~ 28330
, the purchaser may rollover amounts to another qualified tuition 28331
program under section 529 of the Internal Revenue Code or 28332
terminate the contract for any reason by filing written notice 28333
with the Ohio tuition trust authority. 28334

(1) ~~In cases described by division (A)(2) or (3) of this~~ 28335
~~section,~~ If the contract is terminated and the beneficiary is 28336

~~under eighteen years of age, the authority shall use actuarially
sound principles to determine the amount of the refund shall be
equal to not less than one per cent of the weighted average
tuition in the academic year the refund is paid, multiplied by the
number of tuition credits purchased and not used, minus any
reasonable charges and fees provided for by the authority, or such
other lesser sum as shall be determined by the authority but only
to the extent that such a lesser sum is necessary to meet the
refund penalty requirements for qualified state tuition programs
under section 529 of the Internal Revenue Code.~~

~~(2) In cases described by division (A)(1) of this section If
the contract is terminated because of the death or permanent
disability of the beneficiary, the amount of the refund shall be
equal to the greater of the following:~~

~~(a) One per cent of the weighted average tuition in the
academic year the refund is paid, multiplied by the number of
tuition ~~credits~~ units purchased and not used;~~

~~(b) The total purchase price of all tuition ~~credits~~ units
purchased for the beneficiary and not used.~~

~~(3) In cases described by division (A)(5) of this section,
the amount of the refund shall be either of the following as
determined by the authority:~~

~~(a) The refund provided by division (B)(1) of this section;~~

~~(b) The refund provided by division (B)(2) of this section,
or such other lesser sum as shall be determined by the authority
but only to the extent that such a lesser sum is necessary to meet
the refund penalty requirements for qualified state tuition
programs under section 529 of the Internal Revenue Code If all or
part of the amount accrued under the contract is liquidated for a
rollover to another qualified tuition program under section 529 of
the Internal Revenue Code, the rollover amount shall be determined~~

in an actuarially sound manner. 28368

~~(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.~~ 28369
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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.~~ 28378
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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.~~ 28382
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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.~~ 28389
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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~~ 28396
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~~Internal Revenue Code.~~ 28399

~~(E) In the case of a (C) A scholarship program, may request a~~ 28400
~~refund of tuition credits units in the program's account may be~~ 28401
~~made only for just cause with the approval of by filing a written~~ 28402
~~request with~~ the authority. The refund shall be paid to the entity 28403
that established the scholarship program or, with that entity's 28404
approval, to the authority if this is authorized by federal tax 28405
law. The amount of any refund shall be determined by the authority 28406
and shall meet the requirements for refunds made on account of 28407
scholarships under section 529 of the Internal Revenue Code. 28408

~~(F) If a beneficiary is awarded a scholarship other than~~ 28409
~~under a scholarship program, a waiver of tuition, or similar~~ 28410
~~subvention that the authority determines cannot be converted into~~ 28411
~~money by the beneficiary, the authority shall, during each~~ 28412
~~academic term that the beneficiary furnishes the authority such~~ 28413
~~information about the scholarship, waiver, or similar subvention~~ 28414
~~as the authority requires, refund to the person designated in the~~ 28415
~~contract, or, in the case of a beneficiary under a scholarship~~ 28416
~~program, to the beneficiary an amount equal to the value that the~~ 28417
~~tuition credits or the amounts in the variable college savings~~ 28418
~~program account that are not needed on account of the scholarship,~~ 28419
~~waiver, or similar subvention would otherwise have to the~~ 28420
~~beneficiary that term at the institution of higher education where~~ 28421
~~the beneficiary is enrolled. The authority may, at its sole~~ 28422
~~option, designate the institution of higher education at which the~~ 28423
~~beneficiary is enrolled as the agent of the authority for purposes~~ 28424
~~of refunds pursuant to this division.~~ 28425

~~(G) If, in any academic term for which tuition credits or any~~ 28426
~~amounts in a variable college savings program account have been~~ 28427
~~used to pay all or part of a beneficiary's tuition, the~~ 28428
~~beneficiary withdraws from the institution of higher education at~~ 28429
~~which the beneficiary is enrolled prior to the end of the academic~~ 28430

~~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 28462
any other source that the authority determines appropriate, shall 28463
be deposited in the fund. No purchaser or beneficiary of tuition 28464
~~credits~~ units shall have any claim against the funds of any state 28465
institution of higher education. All investment fees and other 28466
costs incurred in connection with the exercise of the investment 28467
powers of the authority pursuant to divisions (D) and (E) of this 28468
section shall be paid from the assets of the fund. 28469

(B) Unless otherwise provided by the authority, the assets of 28470
the Ohio tuition trust fund shall be expended in the following 28471
order: 28472

(1) To make payments to beneficiaries, or institutions of 28473
higher education on behalf of beneficiaries, under division (B) of 28474
section 3334.09 of the Revised Code; 28475

(2) To make refunds as provided in divisions ~~(B)~~, ~~(E)~~, (A) and 28476
~~(F)~~ (C) of section 3334.10 of the Revised Code; 28477

(3) To pay the investment fees and other costs of 28478
administering the fund. 28479

(C)(1) Except as may be provided in an agreement under 28480
division (A)(19) of section 3334.08 of the Revised Code, all 28481
disbursements from the Ohio tuition trust fund shall be made by 28482
the treasurer of state on order of a designee of the authority. 28483

(2) The treasurer of state shall deposit any portion of the 28484
Ohio tuition trust fund not needed for immediate use in the same 28485
manner as state funds are deposited. 28486

(D) The authority is the trustee of the Ohio tuition trust 28487
fund. The authority shall have full power to invest the assets of 28488
the fund and in exercising this power shall be subject to the 28489
limitations and requirements contained in divisions (K) to (M) of 28490
this section and sections 145.112 and 145.113 of the Revised Code. 28491
The evidences of title of all investments shall be delivered to 28492

the treasurer of state or to a qualified trustee designated by the 28493
treasurer of state as provided in section 135.18 of the Revised 28494
Code. Assets of the fund shall be administered by the authority in 28495
a manner designed to be actuarially sound so that the assets of 28496
the fund will be sufficient to satisfy the obligations of the 28497
authority pursuant to tuition payment contracts and defray the 28498
reasonable expenses of administering the fund. 28499

(E) The public employees retirement board shall, with the 28500
approval of the authority, exercise the investment powers of the 28501
authority as set forth in division (D) of this section until the 28502
authority determines that assumption and exercise by the authority 28503
of the investment powers is financially and administratively 28504
feasible. The investment powers shall be exercised by the public 28505
employees retirement board in a manner agreed upon by the 28506
authority that maximizes the return on investment and minimizes 28507
the administrative expenses. 28508

(F)(1) The authority shall maintain a separate account for 28509
each tuition payment contract entered into pursuant to division 28510
(A) of section 3334.09 of the Revised Code for the purchase of 28511
tuition ~~credits~~ units on behalf of a beneficiary or beneficiaries 28512
showing the beneficiary or beneficiaries of that contract and the 28513
number of tuition ~~credits~~ units purchased pursuant to that 28514
contract. Upon request of any beneficiary or person who has 28515
entered into a tuition payment contract, the authority shall 28516
provide a statement indicating, in the case of a beneficiary, the 28517
number of tuition ~~credits~~ units purchased on behalf of the 28518
beneficiary, or in the case of a person who has entered into a 28519
tuition payment contract, the number of tuition ~~credits~~ units 28520
purchased, used, or refunded pursuant to that contract. A 28521
beneficiary and person that have entered into a tuition payment 28522
contract each may file only one request under this division in any 28523
year. 28524

(2) The authority shall maintain an account for each 28525
scholarship program showing the number of tuition ~~credits~~ units 28526
that have been purchased for or donated to the program and the 28527
number of tuition ~~credits~~ units that have been used. Upon the 28528
request of the entity that established the scholarship program, 28529
the authority shall provide a statement indicating these numbers. 28530

(G) In addition to the Ohio tuition trust fund, there is 28531
hereby established a reserve fund that shall be in the custody of 28532
the treasurer of state but shall not be part of the state 28533
treasury, and shall be known as the Ohio tuition trust reserve 28534
fund, and an operating fund that shall be part of the state 28535
treasury, and shall be known as the Ohio tuition trust operating 28536
fund. That portion of payments received by the authority or the 28537
treasurer of state from persons purchasing tuition ~~credits~~ units 28538
under tuition payment contracts that the authority determines is 28539
not actuarially necessary for the payment of obligations of the 28540
authority pursuant to tuition payment contracts, any interest and 28541
investment income earned by the reserve fund, any administrative 28542
charges and fees imposed by the authority on transactions under 28543
this chapter or on purchasers or beneficiaries of tuition ~~credits~~ 28544
units, and all other receipts from any other source that the 28545
authority determines appropriate, shall be deposited in the 28546
reserve fund to pay the operating expenses of the authority and 28547
the costs of administering the program. The assets of the reserve 28548
fund may be invested in the same manner and subject to the same 28549
limitations set forth in divisions (D), (E), and (K) to (M) of 28550
this section and sections 145.112 and 145.113 of the Revised Code. 28551
All investment fees and other costs incurred in connection with 28552
the exercise of the investment powers shall be paid from the 28553
assets of the reserve fund. Except as otherwise provided for in 28554
this chapter, all operating expenses of the authority and costs of 28555
administering the program shall be paid from the operating fund. 28556

The treasurer shall, upon request of the authority, transfer funds 28557
from the reserve fund to the operating fund as the authority 28558
determines appropriate to pay those current operating expenses of 28559
the authority and costs of administering the program as the 28560
authority designates. Any interest or investment income earned on 28561
the assets of the operating fund shall be deposited in the 28562
operating fund. 28563

(H) In January of each year the authority shall report to 28564
each person who received any payments or refunds from the 28565
authority during the preceding year information relative to the 28566
value of the payments or refunds to assist in determining that 28567
person's tax liability. 28568

(I) The authority shall report to the tax commissioner any 28569
information, and at the times, as the tax commissioner requires to 28570
determine any tax liability that a person may have incurred during 28571
the preceding year as a result of having received any payments or 28572
refunds from the authority. 28573

(J) All records of the authority indicating the identity of 28574
purchasers and beneficiaries of tuition ~~credits~~ units or college 28575
savings bonds, the number of tuition ~~credits~~ units purchased, 28576
used, or refunded under a tuition payment contract, and the number 28577
of college savings bonds purchased, held, or redeemed are not 28578
public records within the meaning of section 149.43 of the Revised 28579
Code. 28580

(K) The authority and other fiduciaries shall discharge their 28581
duties with respect to the funds with care, skill, prudence, and 28582
diligence under the circumstances then prevailing that a prudent 28583
person acting in a like capacity and familiar with such matters 28584
would use in the conduct of an enterprise of a like character and 28585
with like aims; and by diversifying the investments of the assets 28586
of the funds so as to minimize the risk of large losses, unless 28587
under the circumstances it is clearly prudent not to do so. 28588

To facilitate investment of the funds, the authority may 28589
establish a partnership, trust, limited liability company, 28590
corporation, including a corporation exempt from taxation under 28591
the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as 28592
amended, or any other legal entity authorized to transact business 28593
in this state. 28594

(L) In exercising its fiduciary responsibility with respect 28595
to the investment of the assets of the funds, it shall be the 28596
intent of the authority to give consideration to investments that 28597
enhance the general welfare of the state and its citizens where 28598
the investments offer quality, return, and safety comparable to 28599
other investments currently available to the authority. In 28600
fulfilling this intent, equal consideration shall also be given to 28601
investments otherwise qualifying under this section that involve 28602
minority owned and controlled firms and firms owned and controlled 28603
by women, either alone or in joint venture with other firms. 28604

The authority shall adopt, in regular meeting, policies, 28605
objectives, or criteria for the operation of the investment 28606
program that include asset allocation targets and ranges, risk 28607
factors, asset class benchmarks, time horizons, total return 28608
objectives, and performance evaluation guidelines. In adopting 28609
policies and criteria for the selection of agents with whom the 28610
authority may contract for the administration of the assets of the 28611
funds, the authority shall give equal consideration to minority 28612
owned and controlled firms, firms owned and controlled by women, 28613
and ventures involving minority owned and controlled firms and 28614
firms owned and controlled by women that otherwise meet the 28615
policies and criteria established by the authority. Amendments and 28616
additions to the policies and criteria shall be adopted in regular 28617
meeting. The authority shall publish its policies, objectives, and 28618
criteria under this provision no less often than annually and 28619
shall make copies available to interested parties. 28620

When reporting on the performance of investments, the 28621
authority shall comply with the performance presentation standards 28622
established by the association for investment management and 28623
research. 28624

(M) All investments shall be purchased at current market 28625
prices and the evidences of title of the investments shall be 28626
placed in the hands of the treasurer of state, who is hereby 28627
designated as custodian thereof, or in the hands of the treasurer 28628
of state's authorized agent. The treasurer of state or the agent 28629
shall collect the principal, dividends, distributions, and 28630
interest thereon as they become due and payable and place them 28631
when so collected into the custodial funds. 28632

The treasurer of state shall pay for investments purchased by 28633
the authority on receipt of written or electronic instructions 28634
from the authority or the authority's designated agent authorizing 28635
the purchase and pending receipt of the evidence of title of the 28636
investment by the treasurer of state or the treasurer of state's 28637
authorized agent. The authority may sell investments held by the 28638
authority, and the treasurer of state or the treasurer of state's 28639
authorized agent shall accept payment from the purchaser and 28640
deliver evidence of title of the investment to the purchaser on 28641
receipt of written or electronic instructions from the authority 28642
or the authority's designated agent authorizing the sale, and 28643
pending receipt of the moneys for the investments. The amount 28644
received shall be placed in the custodial funds. The authority and 28645
the treasurer of state may enter into agreements to establish 28646
procedures for the purchase and sale of investments under this 28647
division and the custody of the investments. 28648

No purchase or sale of any investment shall be made under 28649
this section except as authorized by the authority. 28650

Any statement of financial position distributed by the 28651

authority shall include fair value, as of the statement date, of 28652
all investments held by the authority under this section. 28653

Sec. 3334.12. Notwithstanding anything to the contrary in 28654
sections 3334.07 and 3334.09 of the Revised Code: 28655

(A) Annually, the Ohio tuition trust authority shall have the 28656
actuarial soundness of the Ohio tuition trust fund evaluated by a 28657
nationally recognized actuary and shall determine whether 28658
additional assets are necessary to defray the obligations of the 28659
authority. If, after the authority sets the price for tuition 28660
~~credits~~ units, circumstances arise that the executive director 28661
determines necessitate an additional evaluation of the actuarial 28662
soundness of the fund, the executive director shall have a 28663
nationally recognized actuary conduct the necessary evaluation. If 28664
the assets of the fund are insufficient to ensure the actuarial 28665
soundness of the fund, the authority shall adjust the price of 28666
subsequent purchases of tuition ~~credits~~ units to the extent 28667
necessary to help restore the actuarial soundness of the fund. If, 28668
at any time, the adjustment is likely, in the opinion of the 28669
authority, to diminish the marketability of tuition ~~credits~~ units 28670
to an extent that the continued sale of the ~~credits~~ units likely 28671
would not restore the actuarial soundness of the fund and external 28672
economic factors continue to negatively impact the soundness of 28673
the program, the authority may suspend sales, either permanently 28674
or temporarily, of tuition ~~credits~~ units. During any suspension, 28675
the authority shall continue to service existing college savings 28676
program accounts. 28677

(B) Upon termination of the program or liquidation of the 28678
Ohio tuition trust fund, the Ohio tuition trust reserve fund, and 28679
the Ohio tuition trust operating fund, any remaining assets of the 28680
funds after all obligations of the funds have been satisfied 28681
pursuant to division (B) of section 3334.11 of the Revised Code 28682

shall be transferred to the general revenue fund of the state. 28683

(C) The authority shall prepare and cause to have audited an 28684
annual financial report on all financial activity of the Ohio 28685
tuition trust authority within ninety days of the end of the 28686
fiscal year. The authority shall transmit a copy of the audited 28687
financial report to the governor, the president of the senate, the 28688
speaker of the house of representatives, and the minority leaders 28689
of the senate and the house of representatives. Copies of the 28690
audited financial report also shall be made available, upon 28691
request, to the persons entering into contracts with the authority 28692
and to prospective purchasers of tuition ~~credits~~ units and 28693
prospective contributors to variable college savings program 28694
accounts. 28695

Sec. 3334.15. (A) The right of a person to a tuition ~~credit~~ 28696
unit or a payment under section 3334.09 of the Revised Code 28697
pursuant to a tuition ~~credit~~ payment contract, a scholarship 28698
program, or a variable college savings program account shall not 28699
be subject to execution, garnishment, attachment, the operation of 28700
bankruptcy or the insolvency laws, or other process of law. 28701

(B) The right of a person to a tuition ~~credit~~ unit or a 28702
payment under section 3334.09 of the Revised Code pursuant to a 28703
tuition ~~credit~~ payment contract, a scholarship program, or a 28704
variable college savings program account shall not be used as 28705
security or collateral for a loan. 28706

Sec. 3334.16. The general assembly hereby finds that the 28707
prepaid tuition program providing for the sale of tuition credits 28708
units by the Ohio tuition trust authority is an official state 28709
function, offered through an agency of this state, which agency 28710
receives state appropriations. Therefore, the authority is 28711
directed by the state of Ohio to assume it is exempt from federal 28712

tax liability. 28713

Sec. 3334.17. (A) The state, any political subdivision of the 28714
state, and any organization that is exempt from federal income 28715
taxation under section 501 (a) and described in section 501 (c)(3) 28716
of the Internal Revenue Code, including the Ohio tuition trust 28717
authority if this is authorized under federal tax law, may 28718
establish a scholarship program to award scholarships consisting 28719
of contributions made to any college savings program for students. 28720
Any scholarship program established under this section shall be 28721
registered with the authority. The authority shall be notified of 28722
the name and address of each scholarship beneficiary under the 28723
program, the amounts awarded, and the institution of higher 28724
education in which the beneficiary is enrolled. Scholarship 28725
beneficiaries shall be selected by the entity establishing the 28726
scholarship program, in accordance with criteria established by 28727
the entity. 28728

(B) Any person or governmental entity may purchase tuition 28729
~~credits~~ units on behalf of a scholarship program that is or is to 28730
be established in accordance with division (A) of this section at 28731
the same price as is established for the purchase of ~~credits~~ units 28732
for named beneficiaries pursuant to this chapter. Tuition ~~credits~~ 28733
units shall have the same value to the beneficiary of a 28734
scholarship awarded pursuant to this section as they would have to 28735
any other beneficiary pursuant to division (B) of section 3334.09 28736
of the Revised Code. 28737

(C) The entity establishing and maintaining a scholarship 28738
program shall specify whether a scholarship beneficiary may 28739
receive a refund or payment for the amount awarded under the 28740
scholarship program directly from the authority, or whether the 28741
amount awarded shall be paid by the authority only to the 28742
institution of higher education in which the student is enrolled. 28743

(D) If a scholarship beneficiary does not use the amount 28744
awarded within a length of time specified under the scholarship 28745
program, the amount may be awarded to another beneficiary. 28746

Sec. 3334.18. (A) A variable college savings program 28747
established by the Ohio tuition trust authority shall include 28748
provisions for a contract to be entered into between a contributor 28749
and the authority that will authorize the contributor to open an 28750
account for a beneficiary and authorize the contributor to 28751
substitute a new beneficiary for one originally named in the 28752
contract, to the extent permitted by section 529 of the Internal 28753
Revenue Code. 28754

(B) The authority shall provide adequate safeguards to 28755
prevent total contributions to a variable college savings program 28756
account or purchases of tuition ~~credits~~ units, either separately 28757
or combined, that are made on behalf of a beneficiary from 28758
exceeding the amount necessary to provide for the tuition and 28759
other higher education expenses of the beneficiary, consistent 28760
with the maximum contributions permitted by section 529 of the 28761
Internal Revenue Code. However, in no event shall contributions or 28762
purchases exceed the allowable limit for a qualified ~~state~~ tuition 28763
program under section 529 of the Internal Revenue Code. 28764

(C)(1) Participation in the variable college savings program 28765
does not guarantee that contributions and the investment return on 28766
contributions, if any, will be adequate to cover future tuition 28767
and other higher education expenses or that a beneficiary will be 28768
admitted to or permitted to continue to attend an institution of 28769
higher education. 28770

(2) Returns on contributors' investments in the variable 28771
college savings program are not guaranteed by the state and the 28772
contributors to the variable college savings program assume all 28773
investment risk, including the potential loss of principal and 28774

liability for penalties such as those levied for noneducational
withdrawals. 28775
28776

(3) The state shall have no debt or obligation to any 28777
contributor, beneficiary, or any other person as a result of the 28778
establishment of the program, and the state assumes no risk or 28779
liability for funds invested in the variable college savings 28780
program. 28781

(4) Informational materials about the variable college 28782
savings program prepared by the authority or its agents and 28783
provided to prospective contributors shall state clearly the 28784
information set forth in division (C) of this section. 28785

Sec. 3345.10. (A) As used in this section+ 28786

~~(A), "Institution state institution of higher education"~~ 28787
~~means a state university, municipal university, state medical~~ 28788
~~college, community college, technical college, or state community~~ 28789
~~college has the same meaning as in section 3345.011 of the Revised~~ 28790
~~Code.~~ 28791

(B) Each state institution of higher education shall 28792
establish competitive bidding procedures for the purchase of 28793
printed material and shall award all ~~such~~ contracts for the 28794
purchase of printed material in accordance with ~~such~~ those 28795
procedures. ~~Notwithstanding any other provision of law, The~~ 28796
procedures shall require the institution to evaluate all bids 28797
received for all contracts for the purchase of printed material 28798
~~shall be let by an institution to vendors who have manufacturing~~ 28799
~~facilities within this state, except as provided in division (C)~~ 28800
~~of this section.~~ 28801

~~(C) If the required printed products are not available from a~~ 28802
~~vendor who has manufacturing facilities within this state, the~~ 28803
~~institution shall be permitted to purchase from an out of state~~ 28804

~~vendor.~~ 28805

~~(D) No vendor with manufacturing facilities within this state 28806
who would execute the printing covered by the proposal shall be 28807
prohibited from submitting a proposal for consideration and any 28808
such proposal properly submitted shall be considered in accordance 28809
with the criteria and procedures established pursuant to divisions 28810
(C)(1) and (2) of section 125.09 of the Revised Code for 28811
determining whether bidders will produce the printed material at 28812
manufacturing facilities within this state or in accordance with 28813
the criteria and procedures established pursuant to division 28814
(C)(4) or (5) of that section for determining whether bidders are 28815
otherwise qualified. 28816~~

An institution shall select, in accordance with the 28817
procedures it establishes under this section, a bid from among 28818
bidders that fulfill the criteria specified in the applicable 28819
divisions of section 125.09 of the Revised Code where sufficient 28820
competition can be generated within this state to ensure that 28821
compliance with this requirement will not result in paying an 28822
excessive price or acquiring a disproportionately inferior 28823
product. If there are two or more bids from among those bidders, 28824
it shall be deemed that there is sufficient competition to prevent 28825
paying an excessive price or acquiring a disproportionately 28826
inferior product. 28827

Sec. 3345.32. (A) As used in this section: 28828

(1) "State university or college" means the institutions 28829
described in section 3345.27 of the Revised Code, the northeastern 28830
Ohio universities college of medicine, and the medical college of 28831
Ohio at Toledo. 28832

(2) "Resident" has the meaning specified by rule of the Ohio 28833
board of regents. 28834

(3) "Statement of selective service status" means a statement certifying one of the following:	28835 28836
(a) That the individual filing the statement 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;	28837 28838 28839 28840
(b) That the individual filing the statement is not required to register with the selective service for one of the following reasons:	28841 28842 28843
(i) The individual is under eighteen or over twenty-six years of age;	28844 28845
(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;	28846 28847 28848
(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;	28849 28850 28851
(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.	28852 28853 28854
(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.	28855 28856 28857 28858 28859 28860
(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	28861 28862 28863 28864

wherein a male student born after December 31, 1959, certifies 28865
that the student has registered with the selective service system 28866
in accordance with the "Military Selective Service Act," 62 Stat. 28867
604, 50 U.S.C. App. 453, as amended. For those students not 28868
required to register with the selective service, as specified in 28869
divisions (A)(2)(b)(i) to (iv) of this section, a section shall be 28870
provided on the statement of selective service status for the 28871
certification of nonregistration and for an explanation of the 28872
reason for the exemption. The board of regents may require that 28873
such statements be accompanied by documentation specified by rule 28874
of the board. 28875

(C) A state university or college that enrolls in any course, 28876
class, or program a male student born after December 31, 1959, who 28877
has not filed a statement of selective service status with the 28878
university or college shall, regardless of the student's 28879
residency, charge the student any tuition surcharge charged 28880
students who are not residents of this state. 28881

(D) No male born after December 31, 1959, shall be eligible 28882
to receive any loan, grant, scholarship, or other financial 28883
assistance for educational expenses under section 3315.33, 28884
3333.12, 3333.122, 3333.21, 3333.22, 3333.26, 3333.27, 5910.03, 28885
5910.032, or 5919.34 of the Revised Code unless that person has 28886
filed a statement of selective service status with that person's 28887
institution of higher education. 28888

(E) If an institution of higher education receives a 28889
statement from an individual certifying that the individual has 28890
registered with the selective service system in accordance with 28891
the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 28892
453, as amended or that the individual is exempt from registration 28893
for a reason other than that the individual is under eighteen 28894
years of age, the institution shall not require the individual to 28895
file any further statements. If it receives a statement certifying 28896

that the individual is not required to register because the
individual is under eighteen years of age, the institution shall
require the individual to file a new statement of selective
service status each time the individual seeks to enroll for a new
academic term or makes application for a new loan or loan
guarantee or for any form of financial assistance for educational
expenses, until it receives a statement certifying that the
individual has registered with the selective service system or is
exempt from registration for a reason other than that the
individual is under eighteen years of age.

Sec. 3353.01. As used in ~~sections 3353.01 to 3353.05 of the~~
~~Revised Code~~ this chapter:

(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.

~~(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.~~

~~(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.~~

~~(D) "Transmission facilities" means structures, equipment,
material, and services used in the transmission of educational
television, radio, or radio reading service programs.~~

~~(E) "Interconnection facilities" means the equipment,~~

~~material, and services used to link one location to another~~ 28927
~~location or to several locations by means of telephone line,~~ 28928
~~coaxial cable, microwave relays, or other available technologies.~~ 28929

~~(F)~~(C) "Broadcasting station" means a properly licensed 28930
noncommercial educational television or radio station, 28931
appropriately staffed and equipped to produce programs or lessons 28932
and to broadcast programs. 28933

~~(G) "Production center" means a television, radio, or radio~~ 28934
~~reading service production studio, staffed and equipped with~~ 28935
~~equipment, material, and supplies necessary to produce a program~~ 28936
~~or a lesson for broadcast or for recording on film, video tape, or~~ 28937
~~audio tape.~~ 28938

~~(H)~~(D) "Radio reading service" means a nonprofit organization 28939
that disseminates news and other information to blind and 28940
physically handicapped persons. 28941

Sec. 3353.06. (A) The affiliates services fund is hereby 28942
created in the state treasury. The agency designated by the 28943
governor to assume the functions of the Ohio educational 28944
telecommunications network commission shall deposit any money it 28945
receives to the credit of the fund, including: 28946

(1) Reimbursements for services provided to stations; 28947

(2) Charges levied for maintenance of telecommunications, 28948
broadcasting, or transmission equipment; 28949

(3) Contract or grant payments. 28950

(B) The ~~commission~~ agency shall use money credited to the 28951
affiliates services fund for any ~~commission~~ agency operating 28952
purposes, including: 28953

(1) The purchase, repair, or maintenance of 28954
telecommunications, broadcasting, or transmission equipment; 28955

- (2) The purchase or lease of educational programming; 28956
- (3) The purchase of tape and maintenance of a media library; 28957
- (4) Professional development programs and services; 28958
- (5) Administrative expenses and legal fees. 28959

Sec. 3353.07. (A) ~~As used in this section, "broadcasting station" has the same meaning as in section 3353.01 of the Revised Code.~~ 28960
28961
28962

~~(B)~~ Ohio government telecommunications shall be funded 28963
through the agency designated by the governor to assume the 28964
functions of the Ohio educational telecommunications network 28965
commission and shall be managed by a broadcasting station under a 28966
contract. The contract shall not take effect until the program 28967
committee of Ohio government telecommunications approves the 28968
contract. The broadcasting station shall manage the staff of Ohio 28969
government telecommunications. 28970

~~(C)~~(B)(1) There is hereby created the program committee of 28971
Ohio government telecommunications that shall consist of the 28972
president of the senate, speaker of the house of representatives, 28973
minority leader of the senate, and minority leader of the house of 28974
representatives, or their designees. By a vote of a majority of 28975
its members, the program committee may add additional members to 28976
the committee. 28977

(2) The program committee shall adopt rules that govern the 28978
operation of Ohio government telecommunications and the coverage 28979
and distribution of official governmental activities by Ohio 28980
government telecommunications. 28981

Sec. 3365.01. As used in ~~sections 3365.01 to 3365.10 of the~~ 28982
~~Revised Code~~ this chapter: 28983

(A) "College" means any state-assisted college or university 28984

described in section 3333.041 of the Revised Code, any nonprofit
institution holding a certificate of authorization pursuant to
Chapter 1713. of the Revised Code, any private institution exempt
from regulation under Chapter 3332. of the Revised Code as
prescribed in section 3333.046 of the Revised Code, and any
institution holding a certificate of registration from the state
board of career colleges and schools and program authorization for
an associate or bachelor's degree program issued under section
3332.05 of the Revised Code.

(B) "School district," except as specified in division (G) of
this section, means any school district to which a student is
admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of
the Revised Code and does not include a joint vocational or
cooperative education school district.

(C) "Parent" has the same meaning as in section 3313.64 of
the Revised Code.

(D) "Participant" means a student enrolled in a college under
the post-secondary enrollment options program established by this
chapter.

(E) "Secondary grade" means the ninth through twelfth grades.

(F) "School foundation payments" means the amount required to
be paid to a school district for a fiscal year under Chapter 3317.
of the Revised Code.

(G) "Tuition base" means, with respect to a participant's
school district, the following:

(1) In fiscal year 2006, the "tuition base" shall be the
formula amount defined in ~~division (B) of~~ section 3317.02 of the
Revised Code multiplied by the district's cost-of-doing-business
factor defined in ~~division (N) of that~~ section ~~3317.02 of the~~
Revised Code. ~~The;~~

(2) In fiscal year 2007 and thereafter, the tuition base shall be the greater of the following: 29015
29016

(a) The fiscal year 2006 formula amount defined in section 3317.02 of the Revised Code multiplied by the district's fiscal year 2006 cost-of-doing-business factor as defined in that section; 29017
29018
29019
29020

(b) The sum of the current formula amount defined in section 3317.02 of the Revised Code 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. 29021
29022
29023
29024

The participant's "school district" in the case of a participant enrolled in a community school shall be the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. 29025
29026
29027
29028

(H) "Educational program" means enrollment in one or more school districts, in a nonpublic school, or in a college under division (B) of section 3365.04 of the Revised Code. 29029
29030
29031

(I) "Nonpublic school" means a chartered or nonchartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code. 29032
29033
29034
29035

(J) "School year" means the year beginning on the first day of July and ending on the thirtieth day of June. 29036
29037

(K) "Community school" means any school established pursuant to Chapter 3314. of the Revised Code that includes secondary grades. 29038
29039
29040

(L) "Community school payments" means payments made by the department of education to a community school pursuant to division (D) of section 3314.08 of the Revised Code. 29041
29042
29043

Sec. 3365.02. There is hereby established the post-secondary 29044
enrollment options program under which a secondary grade student 29045
who is a resident of this state may enroll at a college, on a 29046
full- or part-time basis, and complete nonsectarian courses for 29047
high school and college credit. The purpose of the program is to 29048
provide enriched education opportunities to secondary grade 29049
students that are beyond the opportunities offered by the high 29050
school in which they are enrolled. 29051

Secondary grade students in a nonpublic school may 29052
participate in the post-secondary enrollment options program if 29053
the chief administrator of such school notifies the department of 29054
education by the first day of April prior to the school year in 29055
which the school's students will participate. Students in 29056
nonchartered nonpublic schools may participate only in the option 29057
prescribed in division (A) of section 3365.04 of the Revised Code. 29058

The state board of education, after consulting with the board 29059
of regents, shall adopt rules governing the program. The rules 29060
shall include: 29061

(A) Requirements for school districts, community schools, or 29062
participating nonpublic schools to provide information about the 29063
program prior to the first day of March of each year to all 29064
students enrolled in grades eight through eleven; 29065

(B) A requirement that a student or the student's parent 29066
inform the district board of education, the governing authority of 29067
a community school, or the nonpublic school administrator by the 29068
thirtieth day of March of the student's intent to participate in 29069
the program during the following school year. The rule shall 29070
provide that any student who fails to notify a district board, the 29071
governing authority of a community school, or the nonpublic school 29072
administrator by the required date may not participate in the 29073
program during the following school year without the written 29074

consent of the district superintendent, the governing authority of	29075
a community school, or the nonpublic school administrator.	29076
(C) Requirements that school districts and community schools	29077
provide counseling services to students in grades eight through	29078
eleven and to their parents before the students participate in the	29079
program under this chapter to ensure that students and parents are	29080
fully aware of the possible risks and consequences of	29081
participation. Counseling information shall include without	29082
limitation:	29083
(1) Program eligibility;	29084
(2) The process for granting academic credits;	29085
(3) Financial arrangements for tuition, books, materials, and	29086
fees;	29087
(4) Criteria for any transportation aid;	29088
(5) Available support services;	29089
(6) Scheduling;	29090
(7) The consequences of failing or not completing a course in	29091
which the student enrolls and the effect of the grade attained in	29092
the course being included in the student's grade point average, if	29093
applicable;	29094
(8) The effect of program participation on the student's	29095
ability to complete the district's, community school's, or	29096
nonpublic school's graduation requirements;	29097
(9) The academic and social responsibilities of students and	29098
parents under the program;	29099
(10) Information about and encouragement to use the	29100
counseling services of the college in which the student intends to	29101
enroll.	29102
(D) A requirement that the student and the student's parent	29103

sign a form, provided by the school district or school, stating 29104
that they have received the counseling required by division (C) of 29105
this section and that they understand the responsibilities they 29106
must assume in the program; 29107

(E) The options required by section 3365.04 of the Revised 29108
Code; 29109

(F) A requirement that a student may not enroll in any 29110
specific college course through the program if the student has 29111
taken high school courses in the same subject area as that college 29112
course and has failed to attain a cumulative grade point average 29113
of at least 3.0 on a 4.0 scale, or the equivalent, in such 29114
completed high school courses; 29115

(G) A provision prohibiting participation in the option 29116
prescribed under division (B) of section 3365.04 of the Revised 29117
Code to students enrolled in physical education college courses; 29118

(H) A requirement that a student or the student's parent will 29119
reimburse the state for the amount of state funds paid to a 29120
college for a course in which the student is enrolled under this 29121
chapter if the student does not attain a passing final grade in 29122
that course. 29123

Sec. 3365.021. The chief administrator of any nonpublic 29124
school notifying the department of education that students of the 29125
school will participate in the post-secondary enrollment options 29126
program shall provide counseling to students in grades eight 29127
through eleven and to their parents before the students 29128
participate in the program to ensure that students and parents are 29129
fully aware of the possible risks and consequences of 29130
participation. ~~Such~~ The counseling shall include explaining the 29131
fact that funding may be limited ~~and~~, that not all students who 29132
wish to participate may be able to do so, and that participation 29133

by students enrolled in nonchartered nonpublic schools is limited 29134
to the option prescribed in division (A) of section 3365.04 of the 29135
Revised Code. 29136

Sec. 3365.04. The rules adopted under section 3365.02 of the 29137
Revised Code shall provide for students to enroll in courses under 29138
either of the following options: 29139

(A) The student may elect at the time of enrollment to 29140
~~receive only college credit for~~ be responsible for payment of all 29141
tuition and the cost of all textbooks, materials, and fees 29142
associated with the course. The college shall notify the student 29143
about payment of tuition and fees in the customary manner followed 29144
by the college, ~~and the student shall be responsible for payment~~ 29145
~~of all tuition and the cost of all textbooks, materials, and fees~~ 29146
~~associated with the course. If~~ A student electing this option also 29147
shall elect, at the time of enrollment, whether to receive only 29148
college credit or high school credit and college credit for the 29149
course. 29150

(1) The student may elect to receive only college credit for 29151
the course. Except as provided in section 3365.041 of the Revised 29152
Code, if the student successfully completes the course, the 29153
college shall award the student full credit for the course, but 29154
the board of education, community school governing authority, or 29155
nonpublic participating school shall not award the high school 29156
credit. 29157

(2) The student may elect to receive both high school credit 29158
and college credit for the course. Except as provided in section 29159
3365.041 of the Revised Code, if the student successfully 29160
completes the course, the college shall award the student full 29161
credit for the course and the board of education or nonpublic 29162
school, or community school governing authority shall award the 29163
student high school credit. 29164

(B) The student may elect at the time of enrollment for each 29165
course to ~~receive both~~ have the college credit and high school 29166
~~credit~~ reimbursed under section 3365.07 of the Revised Code. 29167
Except as provided in section 3365.041 of the Revised Code, if the 29168
student successfully completes the course, the college shall award 29169
the student full credit for the course, the board of education ~~or,~~ 29170
nonpublic school , or community school governing authority shall 29171
award the student high school credit, and the college shall be 29172
reimbursed in accordance with section 3365.07 of the Revised Code. 29173

No student may participate in the option prescribed under 29174
division (B) of section 3365.04 of the Revised Code if the college 29175
course in which the student is enrolled is a physical education 29176
course, as determined by the superintendent of public instruction. 29177

The option prescribed in division (B) of this section is not 29178
available to students enrolled in nonchartered nonpublic schools. 29179

When determining a school district's formula ADM under 29180
section 3317.03 of the Revised Code, the time a participant is 29181
attending courses under division (A) of this section shall be 29182
considered as time the participant is not attending or enrolled in 29183
school anywhere, and the time a participant is attending courses 29184
under division (B) of this section shall be considered as time the 29185
participant is attending or enrolled in the district's schools. 29186

Sec. 3365.041. (A) When a school district superintendent or 29187
governing authority of a community school expels a student under 29188
division (B) of section 3313.66 of the Revised Code, the district 29189
superintendent or board shall send a written notice of the 29190
expulsion to any college in which the expelled student is enrolled 29191
under section 3365.03 of the Revised Code at the time the 29192
expulsion is imposed. The notice shall indicate the date the 29193
expulsion is scheduled to expire. The notice also shall indicate 29194
whether the district board of education or community school 29195

governing authority has adopted a policy under section 3313.613 of 29196
the Revised Code to deny high school credit for post-secondary 29197
courses taken during an expulsion. If the expulsion is extended 29198
under division (F) of section 3313.66 of the Revised Code, the 29199
district superintendent or governing authority shall notify the 29200
college of the extension. 29201

(B) A college may withdraw its acceptance under section 29202
3365.03 of the Revised Code of a student who is expelled from 29203
school under division (B) of section 3313.66 of the Revised Code. 29204
As provided in section 3365.03 of the Revised Code, regardless of 29205
whether the college withdraws its acceptance of the student for 29206
the college term in which the student is expelled, the student is 29207
ineligible to enroll in a college under that section for 29208
subsequent college terms during the period of the expulsion, 29209
unless the student enrolls in another school district or community 29210
school, or participating nonpublic school during that period. 29211

If a college withdraws its acceptance of an expelled student 29212
who elected ~~the~~ either option of division (A) (1) or (2) of section 29213
3365.04 of the Revised Code, the college shall refund tuition and 29214
fees paid by the student in the same proportion that it refunds 29215
tuition and fees to students who voluntarily withdraw from the 29216
college at the same time in the term. 29217

If a college withdraws its acceptance of an expelled student 29218
who elected the option of division (B) of section 3365.04 of the 29219
Revised Code, the school district or community school shall not 29220
award high school credit for the college courses in which the 29221
student was enrolled at the time the college withdrew its 29222
acceptance, and any reimbursement under section 3365.07 of the 29223
Revised Code for the student's attendance prior to the withdrawal 29224
shall be the same as would be paid for a student who voluntarily 29225
withdrew from the college at the same time in the term. If the 29226
withdrawal results in the college's receiving no reimbursement, 29227

the college may require the student to return or pay for the 29228
textbooks and materials it provided the student free of charge 29229
under section 3365.08 of the Revised Code. 29230

(C) When a student who elected the option of division (B) of 29231
section 3365.04 of the Revised Code is expelled under division (B) 29232
of section 3313.66 of the Revised Code from a school district or 29233
community school that has adopted a policy under section 3313.613 29234
of the Revised Code, that election is automatically revoked for 29235
all college courses in which the student is enrolled during the 29236
college term in which the expulsion is imposed. Any reimbursement 29237
under section 3365.07 of the Revised Code for the student's 29238
attendance prior to the expulsion shall be the same as would be 29239
paid for a student who voluntarily withdrew from the college at 29240
the same time in the term. If the revocation results in the 29241
college's receiving no reimbursement, the college may require the 29242
student to return or pay for the textbooks and materials it 29243
provided the student free of charge under section 3365.08 of the 29244
Revised Code. 29245

No later than five days after receiving an expulsion notice 29246
from the superintendent of a district or the governing authority 29247
of a community school that has adopted a policy under section 29248
3313.613 of the Revised Code, the college shall send a written 29249
notice to the expelled student that the student's election of 29250
division (B) of section 3365.04 of the Revised Code is revoked. If 29251
the college elects not to withdraw its acceptance of the student, 29252
the student shall pay all applicable tuition and fees for the 29253
college courses and shall pay for the textbooks and materials that 29254
the college provided under section 3365.08 of the Revised Code. 29255

Sec. 3365.05. High school credit awarded for courses 29256
successfully completed under this chapter shall count toward the 29257
graduation requirements and subject area requirements of the 29258

school district, community school, or nonpublic school. If a 29259
course comparable to one a student completed at a college is 29260
offered by the district, community school, or nonpublic school, 29261
the board or school shall award comparable credit for the course 29262
completed at the college. If no comparable course is offered by 29263
the district, community school, or nonpublic school, the board or 29264
school shall grant an appropriate number of credits in a similar 29265
subject area to the student. 29266

If there is a dispute between a school district board or a 29267
community school governing authority and a student regarding high 29268
school credits granted for a course, the student may appeal the 29269
board's or governing authority's decision to the state board of 29270
education. The state board's decision regarding any high school 29271
credits granted under this ~~division~~ section is final. 29272

Evidence of successful completion of each course and the high 29273
school credits awarded by the district, community school, or 29274
participating nonpublic school shall be included in the student's 29275
record. The record shall indicate that the credits were earned as 29276
a participant under this chapter and shall include the name of the 29277
college at which the credits were earned. The district board, 29278
community school governing authority, or nonpublic school shall 29279
determine whether and the manner in which the grade achieved in a 29280
course completed at a college under division (A)(2) or (B) of 29281
section 3365.04 of the Revised Code will be counted in any 29282
cumulative grade point average maintained for the student. 29283

Sec. 3365.07. (A) The rules adopted under section 3365.02 of 29284
the Revised Code shall specify a method for each of the following: 29285

(1) Determining, with respect to any participant, the 29286
percentage of a full-time educational program constituted by the 29287
participant's total educational program. That percentage shall be 29288
the participant's full-time equivalency percentage for purposes of 29289

the computation required by division (B)(1) of this section. 29290

(2) In the case of a participant who is not enrolled in a 29291
participating nonpublic school, determining the percentage of a 29292
participant's school day during which the participant is 29293
participating in each of the following: 29294

(a) Programs provided by the city, local, or exempted village 29295
school district, or a community school; 29296

(b) Programs provided by a joint vocational school district; 29297

(c) Programs provided by a college under division (B) of 29298
section 3365.04 of the Revised Code. 29299

The sum of divisions (A)(2)(a) to (c) of this section shall equal 29300
one hundred per cent. 29301

(3) In the case of a participant who is not enrolled in a 29302
participating nonpublic school, determining the percentage of a 29303
participant's enrollment that shall be deemed to be enrollment in 29304
a joint vocational school district and the percentage that shall 29305
be deemed to be enrollment in a city, local, or exempted village 29306
school district. The sum of such percentages shall equal one 29307
hundred per cent. 29308

(4) In the case of a participant who is enrolled in a 29309
participating nonpublic school, determining the percentage of a 29310
participant's school day during which the participant is 29311
participating in programs provided by a college under division (B) 29312
of section 3365.04 of the Revised Code. 29313

(B) Each July, the department of education shall pay each 29314
college for any participant enrolled in the college in the prior 29315
school year under division (B) of section 3365.04 of the Revised 29316
Code an amount computed as follows: 29317

(1) Multiply the tuition base by the participant's full-time 29318
equivalency percentage and multiply the resulting amount by a 29319

percentage equal to the percentage of the participant's school day 29320
apportioned to the college under division (A)(2)(c) or (4) of this 29321
section, as applicable. 29322

(2) Pay the college the lesser of: 29323

(a) The amount computed under division (B)(1) of this 29324
section; 29325

(b) The actual costs that would have been the responsibility 29326
of the participant had the participant elected to enroll under 29327
division (A) of section 3365.04 of the Revised Code, as verified 29328
by the department, of tuition, textbooks, materials, and fees 29329
directly related to any courses elected by the participant during 29330
the prior school year under division (B) of section 3365.04 of the 29331
Revised Code. 29332

(C) The department shall not reimburse any college for any 29333
course taken by a participant under division (A) of section 29334
3365.04 of the Revised Code. 29335

(D) If the participant was not enrolled in a participating 29336
nonpublic school, the amount paid under division (B) of this 29337
section for each participant shall be subtracted from the school 29338
foundation payments made to the participant's school district or, 29339
if the participant was enrolled in a community school, from the 29340
community school payments made to the participant's school under 29341
section 3314.08 of the Revised Code. If the participant was 29342
enrolled in a joint vocational school district, a portion of the 29343
amount shall be subtracted from the payments to the joint 29344
vocational school district and a portion shall be subtracted from 29345
the payments to the participant's city, local, or exempted village 29346
school district. The amount of the payment subtracted from the 29347
city, local, or exempted village school district shall be computed 29348
as follows: 29349

(1) Add the following: 29350

(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. 3365.08. (A) A college that expects to receive or receives reimbursement under section 3365.07 of the Revised Code shall furnish to a participant all textbooks and materials directly related to a course taken by the participant under division (B) of section 3365.04 of the Revised Code. No college shall charge such participant for tuition, textbooks, materials, or other fees directly related to any such course.

(B) No student enrolled under this chapter in a course for

which credit toward high school graduation is awarded shall 29380
receive direct financial aid through any state or federal program. 29381

(C) If a school district provides transportation for resident 29382
school students in grades eleven and twelve under section 3327.01 29383
of the Revised Code, a parent of a pupil enrolled in a course 29384
under division (A)(2) or (B) of section 3365.04 of the Revised 29385
Code may apply to the board of education for full or partial 29386
reimbursement for the necessary costs of transporting the student 29387
between the secondary school the student attends and the college 29388
in which the student is enrolled. Reimbursement may be paid solely 29389
from funds received by the district under division (D) of section 29390
3317.022 of the Revised Code. The state board of education shall 29391
establish guidelines, based on financial need, under which a 29392
district may provide such reimbursement. 29393

(D) If a community school provides or arranges transportation 29394
for its pupils in grades nine through twelve under section 29395
3314.091 of the Revised Code, a parent of a pupil of the community 29396
school who is enrolled in a course under division (A)(2) or (B) of 29397
section 3365.04 of the Revised Code may apply to the governing 29398
authority of the community school for full or partial 29399
reimbursement of the necessary costs of transporting the student 29400
between the community school and the college. The governing 29401
authority may pay the reimbursement in accordance with the state 29402
board's rules adopted under division (C) of this section solely 29403
from funds paid to it under section 3314.091 of the Revised Code. 29404

Sec. 3365.10. As used in this section, the "base amount" for 29405
any school year is ~~one million dollars~~ the amount set aside by an 29406
appropriations act in accordance with division (E) of section 29407
3365.07 of the Revised Code. "Full-time equivalency percentage" 29408
and "percentage of the school day" enrolled in college shall be 29409
determined under the rules described by divisions (A)(1) and (4) 29410

of section 3365.07 of the Revised Code. 29411

This section applies only to students enrolled in chartered
nonpublic schools. 29412
29413

(A) Each chartered nonpublic school student who wishes to 29414
become a participant in any school year shall send to the 29415
department of education a copy of ~~his~~ the student's acceptance 29416
from a college and an application. The application shall be made 29417
on forms provided by the state board and shall include information 29418
about the student's proposed participation, including the school 29419
year in which ~~he~~ the student wishes to participate; the semesters 29420
or terms the student wishes to enroll during such year; the 29421
student's expected full-time equivalency percentage for each such 29422
semester or term; and the percentage of the school day each such 29423
semester or term that the student expects to be enrolled in 29424
programs provided by a college under division (B) of section 29425
3365.04 of the Revised Code. The department shall mark each 29426
application with the date and time of receipt. 29427

(B) Calculations involving applications under this division 29428
shall be made in the order in which the applications are received. 29429

Upon receipt of an application under division (A) of this 29430
section, the department shall calculate the amount the college 29431
would be paid under division (B) of section 3365.07 of the Revised 29432
Code for the student's expected participation. The department 29433
shall subtract each such calculated amount from the base amount 29434
for that year, or the amount remaining for that year after the 29435
subtraction from the base amount of amounts previously calculated 29436
under this division as a result of prior applications for 29437
participation in that year, whichever is the lesser amount. 29438

(C) If such a subtraction under division (B) of this section 29439
results in a positive number, the department shall notify the 29440
applicant within three weeks of the receipt of ~~his~~ the application 29441

that ~~he~~ such applicant may participate in the post-secondary 29442
enrollment options program to the extent indicated in the 29443
application. 29444

(D) If such a subtraction under division (B) of this section 29445
results in a negative number, the department shall, within one 29446
week of the receipt of such application, notify the applicant, the 29447
applicant's chartered nonpublic school, and the college accepting 29448
the applicant that funds will not be available for the applicant's 29449
participation in the program during the year for which the 29450
application was made. The department shall also notify all 29451
applicants whose applications for that year are subsequently 29452
received, their chartered nonpublic schools, and the colleges 29453
accepting them of the same fact. 29454

(E) No applicant receiving notification under division (D) of 29455
this section may become a participant under division (B) of 29456
section 3365.04 of the Revised Code for the year for which ~~he~~ the 29457
applicant applied and no college shall be paid under division (B) 29458
of section 3365.07 of the Revised Code for participation by any 29459
such applicant in such year. 29460

Sec. 3365.11. If the superintendent of the school district or 29461
the chief administrator of the community school or nonpublic 29462
school in which the student is enrolled notifies the 29463
superintendent of public instruction that the student has not 29464
attained a passing final grade in a college course in which the 29465
student is enrolled under this chapter, the superintendent of 29466
public instruction shall initiate proceedings to seek 29467
reimbursement from the student or the student's parent for the 29468
amount of state funds calculated for payment to the college on 29469
behalf of the student for enrollment in that college course. In 29470
seeking reimbursement, the superintendent of public instruction 29471
may request that the attorney general bring a civil cause of 29472

action in the court of common pleas of the county in which the 29473
school district, community school, or nonpublic school is located, 29474
if the superintendent of public instruction determines it 29475
appropriate to bring such an action. 29476

Upon the collection of any funds from a student or student's 29477
parent under this section, the superintendent of public 29478
instruction shall credit the amount collected to the school 29479
district or community school from which an amount was deducted 29480
under division (D) of section 3365.07 of the Revised Code for the 29481
course or, if the student is enrolled in a nonpublic school, to 29482
the general revenue fund. 29483

Sec. 3375.40. Each board of library trustees appointed 29484
pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, 29485
or 3375.30 of the Revised Code may do the following: 29486

(A) Hold title to and have the custody of all real and 29487
personal property of the free public library under its 29488
jurisdiction; 29489

(B) Expend for library purposes, and in the exercise of the 29490
power enumerated in this section, all moneys, whether derived from 29491
the county library and local government support fund or otherwise, 29492
credited to the free public library under its jurisdiction and 29493
generally do all things it considers necessary for the 29494
establishment, maintenance, and improvement of the free public 29495
library under its jurisdiction; 29496

(C) Purchase, lease, construct, remodel, renovate, or 29497
otherwise improve, equip, and furnish buildings or parts of 29498
buildings and other real property, and purchase, lease, or 29499
otherwise acquire motor vehicles and other personal property, 29500
necessary for the proper maintenance and operation of the free 29501
public library under its jurisdiction, and pay their costs in 29502

installments or otherwise. Financing of these costs may be 29503
provided through the issuance of notes, through an installment 29504
sale, or through a lease-purchase agreement. Any such notes shall 29505
be issued pursuant to section 3375.404 of the Revised Code. 29506

(D) Purchase, lease, lease with an option to purchase, or 29507
erect buildings or parts of buildings to be used as main 29508
libraries, branch libraries, or library stations pursuant to 29509
section 3375.41 of the Revised Code; 29510

(E) Establish and maintain a main library, branches, library 29511
stations, and traveling library service within the territorial 29512
boundaries of the political subdivision or district over which it 29513
has jurisdiction of free public library service; 29514

(F) Except as otherwise provided in this division, establish 29515
and maintain branches, library stations, and traveling library 29516
service in any school district, outside the territorial boundaries 29517
of the political subdivision or district over which it has 29518
jurisdiction of free public library service, upon application to 29519
and approval of the state library board, pursuant to section 29520
3375.05 of the Revised Code. The board of library trustees of any 29521
free public library maintaining branches, stations, or traveling 29522
library service, outside the territorial boundaries of the 29523
political subdivision or district over which it has jurisdiction 29524
of free public library service, on September 4, 1947, may continue 29525
to maintain and operate those branches, those stations, and that 29526
traveling library service without the approval of the state 29527
library board. 29528

(G) Appoint and fix the compensation of all of the employees 29529
of the free public library under its jurisdiction, pay the 29530
reasonable cost of tuition for any of its employees who enroll in 29531
a course of study the board considers essential to the duties of 29532
the employee or to the improvement of the employee's performance, 29533

and reimburse applicants for employment for any reasonable 29534
expenses they incur by appearing for a personal interview; 29535

(H) Make and publish rules for the proper operation and 29536
management of the free public library and facilities under its 29537
jurisdiction, including rules pertaining to the provision of 29538
library services to individuals, corporations, or institutions 29539
that are not inhabitants of the county; 29540

(I) Assess uniform fees for the provision of services to 29541
patrons of the library, but no fee shall be assessed for the 29542
circulation of printed materials held by the library except for 29543
the assessment of fines for materials not returned in accordance 29544
with the board's rules; 29545

(J) Establish and maintain a museum in connection with and as 29546
an adjunct to the free public library under its jurisdiction; 29547

~~(J)~~(K) By the adoption of a resolution, accept any bequest, 29548
gift, or endowment upon the conditions connected with the bequest, 29549
gift, or endowment. No such bequest, gift, or endowment shall be 29550
accepted by the board if its conditions remove any portion of the 29551
free public library under the board's jurisdiction from the 29552
control of the board or if the conditions, in any manner, limit 29553
the free use of the library or any part of it by the residents of 29554
the counties in which the library is located. 29555

~~(K)~~(L) At the end of any fiscal year, by a two-thirds vote of 29556
its full membership, set aside any unencumbered surplus remaining 29557
in the general fund of the free public library under its 29558
jurisdiction for any purpose, including creating or increasing a 29559
special building and repair fund, or for operating the library or 29560
acquiring equipment and supplies; 29561

~~(L)~~(M) Procure and pay all or part of the cost of group term 29562
life, hospitalization, surgical, major medical, disability 29563
benefit, dental care, eye care, hearing aids, or prescription drug 29564

insurance or coverage, or a combination of any of those types of 29565
insurance or coverage, whether issued by an insurance company or a 29566
health insuring corporation duly licensed by the state, covering 29567
its employees, and, in the case of group term life, 29568
hospitalization, surgical, major medical, dental care, eye care, 29569
hearing aids, or prescription drug insurance or coverage, also 29570
covering the dependents and spouses of its employees, and, in the 29571
case of disability benefits, also covering the spouses of its 29572
employees. 29573

~~(M)~~(N) Pay reasonable dues and expenses for the free public 29574
library and library trustees in library associations. 29575

Any instrument by which real property is acquired pursuant to 29576
this section shall identify the agency of the state that has the 29577
use and benefit of the real property as specified in section 29578
5301.012 of the Revised Code. 29579

~~Section **Sec. 3375.48.** The judges of the court of common pleas 29580
of any county in which there is a A law library association which 29581
furnishes that receives fines and penalties, and moneys arising 29582
from forfeited bail, under sections 3375.50 to 3375.53 of the 29583
Revised Code shall furnish to all of the members of the ~~Ohio~~ 29584
general assembly, the ~~county~~ officers of the county in which the 29585
association is located, and the judges of the ~~several~~ courts in 29586
the that county admission to ~~its~~ the associations's law library 29587
and the use of its books, materials, and equipment free of charge, 29588
~~upon the appointment by the.~~ The association's board of trustees 29589
~~of such association of~~ may appoint a person to act as librarian 29590
thereof, or of a person to act as librarian and not more than two 29591
additional persons to act as assistant law librarians thereof, of 29592
the law library. The board shall fix be responsible for fixing and 29593
paying the compensation of ~~such~~ those persons, ~~which shall be paid~~ 29594
~~from the county treasury subject to section 3375.49 of the Revised~~ 29595~~

Code. 29596

Sec. 3375.49. For (A) Subject to divisions (B) and (C) of 29597
this section, for the use of the law library referred to in 29598
section 3375.48 of the Revised Code, the board of county 29599
commissioners shall provide, at the expense of the county, 29600
suitable rooms with sufficient and suitable bookcases space in the 29601
county courthouse or, if there are no suitable rooms in the 29602
courthouse, any other suitable rooms at in any other building 29603
located in the county seat with sufficient, and suitable bookcases 29604
utilities for that space. The 29605

(B)(1) Subject to division (C) of this section, through 29606
calendar year 2006, the board of county commissioners shall be 29607
responsible for paying the compensation of the librarian and up to 29608
two assistant librarians of the law library appointed by the board 29609
of trustees of the law library association under section 3375.48 29610
of the Revised Code and the costs of the space in the county 29611
courthouse or other building that the board provides for the use 29612
of the law library under division (A) of this section, the 29613
utilities for that space, and furniture and fixtures for the law 29614
library. 29615

(2) In calendar years 2007 through 2010, the board of county 29616
commissioners and the board of trustees shall be responsible for 29617
paying the compensation of the librarian and up to two assistant 29618
librarians appointed under section 3375.48 of the Revised Code and 29619
the costs of the space in the county courthouse or other building 29620
that the board of county commissioners provides for the use of the 29621
law library under division (A) of this section, the utilities for 29622
that space, and furniture and fixtures for the law library as 29623
follows: 29624

(a) In calendar year 2007, the board of county commissioners 29625
shall pay eighty per cent, and the board of trustees shall pay 29626

twenty per cent.

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(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.

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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.

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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.

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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.

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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

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section 3375.48 of the Revised Code and for the costs of space in 29658
the county courthouse or an other building for the use of the law 29659
library, the utilities for that space, and the law library's 29660
furniture and fixtures. 29661

(D) The librarian or person in charge of the law library 29662
shall receive and safely keep in ~~these rooms~~ the law library the 29663
law reports and other books furnished by the state for use of the 29664
court and bar. ~~The board of county commissioners shall heat and~~ 29665
~~light any such rooms. The~~ 29666

(E) The books, computer communications console that is a 29667
means of access to a system of computerized legal research, 29668
microform materials and equipment, videotape materials and 29669
equipment, audio or visual materials and equipment, other 29670
materials and equipment utilized in conducting legal research, ~~and~~ 29671
furniture, and fixtures of the law library association that are 29672
owned by, and used exclusively in, the law library are exempt from 29673
taxation. 29674

Sec. 3375.54. The money that is paid to the board of trustees 29675
of a law library association under sections 3375.50 to 3375.53 of 29676
the Revised Code shall be expended in the support and operation of 29677
the law library association ~~and~~; in the purchase, lease, or rental 29678
of lawbooks, a computer communications console that is a means of 29679
access to a system of computerized legal research, microform 29680
materials and equipment, videotape materials and equipment, audio 29681
or visual materials and equipment, ~~and other services,~~ materials, 29682
and equipment ~~that provide legal information or facilitate~~ 29683
utilized in conducting legal research, furniture, and fixtures 29684
used in the association's law library; and to pay the compensation 29685
of any librarian and assistant librarians of the law library 29686
appointed under section 3375.48 of the Revised Code. 29687

~~Sec. 3375.55. Judges of the county court in the county and~~ 29688
~~officers~~ Officers of the townships and municipal corporations 29689
~~therein in a county in which a law library association that~~ 29690
~~receives fines and penalties, and moneys arising from forfeited~~ 29691
~~bail, under sections 3375.50 to 3375.53 of the Revised Code is~~ 29692
~~located~~ shall have the same free use of the books, materials, and 29693
equipment of the association's law library ~~receiving moneys under~~ 29694
~~sections 3375.50 to 3375.53, inclusive, of the Revised Code, as~~ 29695
general assembly members and the judges and county officers 29696
mentioned in section 3375.48 of the Revised Code. 29697

~~Sec. 3377.03. The Ohio higher educational facility commission~~ 29698
shall be comprised of nine members, one of whom shall be the 29699
chancellor of the Ohio board of regents or ~~his~~ the chancellor's 29700
designee. The remaining members shall be appointed by the governor 29701
with the advice and consent of the senate. ~~Of the members first~~ 29702
~~appointed, one shall serve for a term ending on the first Monday~~ 29703
~~in January, 1970; one for a term ending on the first Monday in~~ 29704
~~January, 1971; one for a term ending on the first Monday in~~ 29705
~~January, 1972; one for a term ending on the first Monday in~~ 29706
~~January, 1973; one for a term ending on the first Monday in~~ 29707
~~January, 1974; one for a term ending on the first Monday in~~ 29708
~~January, 1975; one for a term ending on the first Monday in~~ 29709
~~January, 1976; and one for a term ending on the first Monday in~~ 29710
~~January, 1977. Each succeeding term of office shall be for eight~~ 29711
years, commencing on the second day of January and ending on the 29712
first day of January, ~~except that upon expiration of the term~~ 29713
~~ending January 7, 1974, the new term which succeeds it shall~~ 29714
~~commence on January 8, 1974, and end on January 1, 1982; upon~~ 29715
~~expiration of the term ending January 6, 1975, the new term which~~ 29716
~~succeeds it shall commence on January 7, 1975, and end on January~~ 29717
~~1, 1983; upon expiration of the term ending January 5, 1976, the~~ 29718

~~new term which succeeds it shall commence on January 6, 1976, and~~ 29719
~~end on January 1, 1984; upon expiration of the term ending January~~ 29720
~~3, 1977, the new term which succeeds it shall commence on January~~ 29721
~~4, 1977, and end on January 1, 1985; upon expiration of the term~~ 29722
~~ending January 5, 1978, the new term which succeeds it shall~~ 29723
~~commence on January 6, 1978, and end on January 1, 1986; upon~~ 29724
~~expiration of the term ending January 4, 1979, the new term which~~ 29725
~~succeeds it shall commence on January 5, 1979, and end on January~~ 29726
~~1, 1987; and upon expiration of the term ending January 3, 1980,~~ 29727
~~the new term which succeeds it shall commence on January 4, 1980,~~ 29728
~~and end on January 1, 1988. Each member shall hold office from the~~ 29729
date of ~~his~~ appointment until the end of the term for which ~~he was~~ 29730
appointed. Vacancies shall be filled by gubernatorial appointment. 29731
Any member appointed to fill a vacancy occurring prior to the 29732
expiration of the term for which ~~his~~ the member's predecessor was 29733
appointed shall hold office for the remainder of such term. Any 29734
member shall continue in office subsequent to the expiration date 29735
of ~~his~~ the member's term until ~~his~~ the member's successor takes 29736
office, or until a period of sixty days has elapsed, whichever 29737
occurs first. 29738

The governor shall designate the ~~chairman~~ chairperson of the 29739
commission. The commission shall elect from its own members each 29740
year, a ~~vice-chairman~~ vice-chairperson and such other officers as 29741
it deems necessary. Members of the commission shall receive no 29742
compensation for their services but shall be reimbursed for their 29743
necessary and actual expenses actually incurred in the conduct of 29744
the commission's business. 29745

The commission shall provide for the holding of regular and 29746
special meetings. A majority of the commissioners shall constitute 29747
a quorum for the transaction of any business and the approval of a 29748
majority of the members is necessary to undertake any act of the 29749
commission. The meetings are subject to section 121.22 of the 29750

Revised Code, except that one or more members may be present at a 29751
meeting by interactive video teleconference or teleconference if 29752
public attendance is allowed at the meeting's location. In that 29753
case, members present at a meeting by interactive video 29754
teleconference or teleconference may be considered present for 29755
determining whether a quorum exists and may vote, notwithstanding 29756
the requirement of division (C) of that section that members be 29757
present in person for those purposes. 29758

The commission shall adopt rules for the conduct of business, 29759
may appoint such officers and employees as necessary, and may fix 29760
their compensation and prescribe their duties. All expenses 29761
incurred in carrying out Chapter 3377. of the Revised Code are 29762
payable solely from funds of the commission available therefor, 29763
and no liability or obligation shall be incurred by the commission 29764
beyond the extent to which such funds are available. 29765

Within ninety days after the close of each fiscal year, the 29766
commission shall make a report of its activities for the preceding 29767
fiscal year to the governor. Such report shall be filed with the 29768
clerk of each house of the general assembly. 29769

Sec. 3383.02. (A) There is hereby created the Ohio cultural 29770
facilities commission. The commission shall engage in and provide 29771
for the development, performance, and presentation or making 29772
available of culture and professional sports and athletics to the 29773
public in this state, and the provision of training or education 29774
in culture, by the exercise of its powers under this chapter, 29775
including the provision, operation, management, and cooperative 29776
use of Ohio cultural facilities and Ohio sports facilities. The 29777
commission is a body corporate and politic, an agency of state 29778
government and an instrumentality of the state, performing 29779
essential governmental functions of this state. The carrying out 29780
of the purposes and the exercise by the commission of its powers 29781

conferred by this chapter are essential public functions and 29782
public purposes of the state and of state government. The 29783
commission may, in its own name, sue and be sued, enter into 29784
contracts, and perform all the powers and duties given to it by 29785
this chapter; however, it does not have and shall not exercise the 29786
power of eminent domain. 29787

(B) The commission shall consist of ~~ten~~ twelve members, ~~seven~~ 29788
nine of whom shall be voting members and three of whom shall be 29789
nonvoting members. The ~~seven~~ nine voting members shall be 29790
appointed by the governor, with the advice and consent of the 29791
senate, from different geographical regions of the state. In 29792
addition, one of the voting members shall represent the state 29793
architect. Not more than ~~four~~ five of the members appointed by the 29794
governor shall be affiliated with the same political party. The 29795
nonvoting members shall be the staff director of the Ohio arts 29796
council, a member of the senate appointed by the president of the 29797
senate, and a member of the house of representatives appointed by 29798
the speaker of the house. 29799

(C) Of the five initial appointments made by the governor, 29800
one shall be for a term expiring December 31, 1989, two shall be 29801
for terms expiring December 31, 1990, and two shall be for terms 29802
expiring December 31, 1991. Of the initial appointments of the 29803
sixth and seventh voting members made by the governor, one shall 29804
be for a term expiring December 31, 2003, and one shall be for a 29805
term expiring December 31, 2004. Of the initial appointments of 29806
the eighth and ninth voting members made by the governor, one 29807
shall be for a term expiring December 31, 2007, and one shall be 29808
for a term expiring December 31, 2008. These voting members shall 29809
be appointed within sixty days after the effective date of this 29810
amendment. Thereafter, each such term shall be for three years, 29811
commencing on the first day of January and ending on the 29812
thirty-first day of December. Each appointment by the president of 29813

the senate and by the speaker of the house of representatives 29814
shall be for the balance of the then legislative biennium. Each 29815
member shall hold office from the date of the member's appointment 29816
until the end of the term for which the member was appointed. Any 29817
member appointed to fill a vacancy occurring prior to the 29818
expiration of the term for which the member's predecessor was 29819
appointed shall hold office for the remainder of such term. Any 29820
member shall continue in office subsequent to the expiration date 29821
of the member's term until the member's successor takes office, or 29822
until a period of sixty days has elapsed, whichever occurs first. 29823

(D) Members of the commission shall serve without 29824
compensation. 29825

(E) Organizational meetings of the commission shall be held 29826
at the first meeting of each calendar year. At each organizational 29827
meeting, the commission shall elect from among its voting members 29828
a chairperson, a vice-chairperson, and a secretary-treasurer, who 29829
shall serve until the next annual meeting. The commission shall 29830
adopt rules pursuant to section 111.15 of the Revised Code for the 29831
conduct of its internal business and shall keep a journal of its 29832
proceedings. 29833

(F) ~~Four~~ Five voting members of the commission constitute a 29834
quorum, and the affirmative vote of ~~four~~ five members is necessary 29835
for approval of any action taken by the commission. A vacancy in 29836
the membership of the commission does not impair a quorum from 29837
exercising all the rights and performing all the duties of the 29838
commission. Meetings of the commission may be held anywhere in the 29839
state, and shall be held in compliance with section 121.22 of the 29840
Revised Code. 29841

(G) All expenses incurred in carrying out this chapter are 29842
payable solely from money accrued under this chapter or 29843
appropriated for these purposes by the general assembly, and the 29844
commission shall incur no liability or obligation beyond such 29845

money. 29846

(H) The commission shall file an annual report of its 29847
activities and finances with the governor, director of budget and 29848
management, speaker of the house of representatives, president of 29849
the senate, and chairpersons of the house and senate finance 29850
committees. 29851

(I) There is hereby established in the state treasury the 29852
Ohio cultural facilities commission administration fund. All 29853
revenues of the commission shall be credited to that fund and to 29854
any accounts created in ~~the~~ that fund with the commission's 29855
approval. All expenses of the commission, including reimbursement 29856
of, or payment to, any other fund or any governmental agency for 29857
advances made or services rendered to or on behalf of the 29858
commission, shall be paid from ~~the Ohio cultural facilities~~ 29859
~~commission administration~~ that fund as determined by or pursuant 29860
to directions of the commission. All investment earnings of ~~the~~ 29861
~~administration~~ that fund shall be credited to ~~the fund~~ it and 29862
shall be allocated among any accounts created in the fund in the 29863
manner determined by the commission. 29864

(J) Title to all real property and lesser interests in real 29865
property acquired by the commission, including leasehold and other 29866
interests, pursuant to this chapter shall be taken in the name of 29867
the state and shall be held for the use and benefit of the 29868
commission. The commission shall not mortgage such real property 29869
and interests in real property. Title to other property and 29870
interests in it acquired by the commission pursuant to this 29871
chapter shall be taken in its name. 29872

Sec. 3501.141. (A) The board of elections of any county may 29873
contract, purchase, or otherwise procure and pay all or any part 29874
of the cost of group insurance policies that may provide benefits 29875
for hospitalization, surgical care, major medical care, 29876

disability, dental care, eye care, medical care, hearing aids, or 29877
prescription drugs, and that may provide sickness and accident 29878
insurance, or group life insurance, or a combination of any of the 29879
foregoing types of insurance or coverage for the full-time 29880
employees of such board and their immediate dependents, whether 29881
issued by an insurance company or a health insuring corporation, 29882
duly authorized to do business in this state. The authority 29883
granted under this division applies only when the board of county 29884
commissioners, by resolution, denies coverage described in this 29885
division to full-time employees of the board of elections. 29886

(B) The board of elections of any county, with the approval 29887
of the board of county commissioners, may procure and pay all or 29888
any part of the cost of group hospitalization, surgical, major 29889
medical, or sickness and accident insurance or a combination of 29890
any of the foregoing types of insurance or coverage for the 29891
members appointed to the board of elections under section 3501.06 29892
of the Revised Code and their immediate dependents when each 29893
member's term begins, whether issued by an insurance company or a 29894
health insuring corporation, duly authorized to do business in 29895
this state. 29896

Sec. 3501.17. (A) The expenses of the board of elections 29897
shall be paid from the county treasury, in pursuance of 29898
appropriations by the board of county commissioners, in the same 29899
manner as other county expenses are paid. ~~If the board of county~~ 29900
~~commissioners fails to appropriate an amount sufficient to provide~~ 29901
~~for the necessary and proper expenses of the board of elections,~~ 29902
~~such board may apply to the court of common pleas within the~~ 29903
~~county, which shall fix the amount necessary to be appropriated~~ 29904
~~and such amount shall be appropriated.~~ Payments shall be made upon 29905
vouchers of the board of elections certified to by its chairperson 29906
or acting chairperson and the director or deputy director, upon 29907
warrants of the county auditor. The board of elections shall not 29908

incur any obligation involving the expenditure of money unless 29909
there are moneys sufficient in the funds appropriated therefor to 29910
meet such obligations pursuant to division (D) of section 5705.41 29911
of the Revised Code, and the board may transfer funds only as 29912
provided under sections 5705.14 to 5705.16 of the Revised Code. 29913
Such expenses shall be apportioned among the county and the 29914
various subdivisions as provided in this section, and the amount 29915
chargeable to each subdivision shall be withheld by the auditor 29916
from the moneys payable thereto at the time of the next tax 29917
settlement. At the time of submitting budget estimates in each 29918
year, the board of elections shall submit to the taxing authority 29919
of each subdivision, upon the request of the subdivision, an 29920
estimate of the amount to be withheld therefrom during the next 29921
fiscal year. 29922

(B) Except as otherwise provided in division (F) of this 29923
section, the entire compensation of the members of the board of 29924
elections and of the director, deputy director, and other 29925
employees in the board's offices; the expenditures for the rental, 29926
furnishing, and equipping of the office of the board and for the 29927
necessary office supplies for the use of the board; the 29928
expenditures for the acquisition, repair, care, and custody of the 29929
polling places, booths, guardrails, and other equipment for 29930
polling places; the cost of pollbooks, tally sheets, maps, flags, 29931
ballot boxes, and all other permanent records and equipment; the 29932
cost of all elections held in and for the state and county; and 29933
all other expenses of the board which are not chargeable to a 29934
political subdivision in accordance with this section shall be 29935
paid in the same manner as other county expenses are paid. 29936

(C) The compensation of judges and clerks of elections; the 29937
cost of renting, moving, heating, and lighting polling places and 29938
of placing and removing ballot boxes and other fixtures and 29939
equipment thereof; the cost of printing and delivering ballots, 29940

cards of instructions, and other election supplies; and all other 29941
expenses of conducting primaries and elections in the odd-numbered 29942
years shall be charged to the subdivisions in and for which such 29943
primaries or elections are held. The charge for each primary or 29944
general election in odd-numbered years for each subdivision shall 29945
be determined in the following manner: first, the total cost of 29946
all chargeable items used in conducting such elections shall be 29947
ascertained; second, the total charge shall be divided by the 29948
number of precincts participating in such election, in order to 29949
fix the cost per precinct; third, the cost per precinct shall be 29950
prorated by the board of elections to the subdivisions conducting 29951
elections for the nomination or election of offices in such 29952
precinct; fourth, the total cost for each subdivision shall be 29953
determined by adding the charges prorated to it in each precinct 29954
within the subdivision. 29955

(D) The entire cost of special elections held on a day other 29956
than the day of a primary or general election, both in 29957
odd-numbered or in even-numbered years, shall be charged to the 29958
subdivision. Where a special election is held on the same day as a 29959
primary or general election in an even-numbered year, the 29960
subdivision submitting the special election shall be charged only 29961
for the cost of ballots and advertising. Where a special election 29962
is held on the same day as a primary or general election in an 29963
odd-numbered year, the subdivision submitting the special election 29964
shall be charged for the cost of ballots and advertising for such 29965
special election, in addition to the charges prorated to such 29966
subdivision for the election or nomination of candidates in each 29967
precinct within the subdivision, as set forth in the preceding 29968
paragraph. 29969

(E) Where a special election is held on the day specified by 29970
division (E) of section 3501.01 of the Revised Code for the 29971
holding of a primary election, for the purpose of submitting to 29972

the voters of the state constitutional amendments proposed by the
general assembly, and a subdivision conducts a special election on
the same day, the entire cost of the special election shall be
divided proportionally between the state and the subdivision based
upon a ratio determined by the number of issues placed on the
ballot by each, except as otherwise provided in division (G) of
this section. Such proportional division of cost shall be made
only to the extent funds are available for such purpose from
amounts appropriated by the general assembly to the secretary of
state. If a primary election is also being conducted in the
subdivision, the costs shall be apportioned as otherwise provided
in this section.

(F) When a precinct is open during a general, primary, or
special election solely for the purpose of submitting to the
voters a statewide ballot issue, the state shall bear the entire
cost of the election in that precinct and shall reimburse the
county for all expenses incurred in opening the precinct.

(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. 30004

Sec. 3701.021. (A) The public health council shall adopt, in 30005
accordance with Chapter 119. of the Revised Code, such rules as 30006
are necessary to carry out sections 3701.021 to 3701.0210 of the 30007
Revised Code, including, but not limited to, rules to establish 30008
the following: 30009

(1) Medical and financial eligibility requirements consistent 30010
with division (B) of this section for the program for medically 30011
handicapped children; 30012

(2) Eligibility requirements for providers of services for 30013
medically handicapped children; 30014

(3) Procedures to be followed by the department of health in 30015
disqualifying providers for violating requirements adopted under 30016
division (A)(2) of this section; 30017

(4) Procedures to be used by the department regarding 30018
application for diagnostic services under division (B) of section 30019
3701.023 of the Revised Code and payment for those services under 30020
division (E) of that section; 30021

(5) Standards for the provision of service coordination by 30022
the department of health and city and general health districts; 30023

(6) Procedures for the department to use to determine the 30024
amount to be paid annually by each county for services for 30025
medically handicapped children and to allow counties to retain 30026
funds under divisions (A)(2) and (3) of section 3701.024 of the 30027
Revised Code; 30028

(7) Financial eligibility requirements for services for Ohio 30029
residents twenty-one years of age or older who have cystic 30030
fibrosis; 30031

(8) Criteria for payment of approved providers who provide 30032

services for medically handicapped children;	30033
(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;	30034 30035 30036
(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;	30037 30038 30039
(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;	30040 30041 30042
(12) Eligibility requirements for the hemophilia program, including income and hardship requirements.	30043 30044
<u>(B)(1) Except as provided in division (B)(2) of this section, an individual who is eligible for the medicaid program established under Chapter 5111. of the Revised Code is ineligible for the program for medically handicapped children.</u>	30045 30046 30047 30048
<u>(2) An individual eligible for medicaid under the spend-down provision provided by 42 C.F.R. 435.121(e)(4) as a result of costs incurred on the individual's behalf under the program for medically handicapped children is eligible for the program for medically handicapped children if the cost to the state to enable the individual to be eligible for both medicaid and the program for medically handicapped children is less than the cost to the state of providing services to the individual under the program for medically handicapped children alone.</u>	30049 30050 30051 30052 30053 30054 30055 30056 30057
<u>(C)</u> The department of health shall develop a manual of operational procedures and guidelines for the program for medically handicapped children to implement sections 3701.021 to 3701.0210 of the Revised Code.	30058 30059 30060 30061
Sec. 3701.023. (A) The department of health shall review	30062

applications for eligibility for the program for medically 30063
handicapped children that are submitted to the department by city 30064
and general health districts and physician providers approved in 30065
accordance with division (C) of this section. The department shall 30066
determine whether the applicants meet the medical and financial 30067
eligibility requirements established by the public health council 30068
pursuant to division (A)(1) of section 3701.021 of the Revised 30069
Code, and by the department in the manual of operational 30070
procedures and guidelines for the program for medically 30071
handicapped children developed pursuant to division (B) of that 30072
section. Referrals of potentially eligible children for the 30073
program may be submitted to the department on behalf of the child 30074
by parents, guardians, public health nurses, or any other 30075
interested person. The department of health may designate other 30076
agencies to refer applicants to the department of health. 30077

(B) In accordance with the procedures established in rules 30078
adopted under division (A)(4) of section 3701.021 of the Revised 30079
Code, the department of health shall authorize a provider or 30080
providers to provide to any Ohio resident under twenty-one years 30081
of age, without charge to the resident or the resident's family 30082
and without restriction as to the economic status of the resident 30083
or the resident's family, diagnostic services necessary to 30084
determine whether the resident ~~suffers from~~ has a medically 30085
handicapping or potentially medically handicapping condition. 30086

(C) The department of health shall review the applications of 30087
health professionals, hospitals, medical equipment suppliers, and 30088
other individuals, groups, or agencies that apply to become 30089
providers. The department shall enter into a written agreement 30090
with each applicant who is determined, pursuant to the 30091
requirements set forth in rules adopted under division (A)(2) of 30092
section 3701.021 of the Revised Code, to be eligible to be a 30093
provider in accordance with the provider agreement required by the 30094

medical assistance program established under section 5111.01 of 30095
the Revised Code. No provider shall charge a medically handicapped 30096
child or the child's parent or guardian for services authorized by 30097
the department under division (B) or (D) of this section. 30098

The department, in accordance with rules adopted under 30099
division (A)(3) of section 3701.021 of the Revised Code, may 30100
disqualify any provider from further participation in the program 30101
for violating any requirement set forth in rules adopted under 30102
division (A)(2) of that section. The disqualification shall not 30103
take effect until a written notice, specifying the requirement 30104
violated and describing the nature of the violation, has been 30105
delivered to the provider and the department has afforded the 30106
provider an opportunity to appeal the disqualification under 30107
division (H) of this section. 30108

(D) The department of health shall evaluate applications from 30109
city and general health districts and approved physician providers 30110
for authorization to provide treatment services, service 30111
coordination, and related goods to children determined to be 30112
eligible for the program for medically handicapped children 30113
pursuant to division (A) of this section. The department shall 30114
authorize necessary treatment services, service coordination, and 30115
related goods for each eligible child in accordance with an 30116
individual plan of treatment for the child. As an alternative, the 30117
department may authorize payment of health insurance premiums on 30118
behalf of eligible children when the department determines, in 30119
accordance with criteria set forth in rules adopted under division 30120
(A)(9) of section 3701.021 of the Revised Code, that payment of 30121
the premiums is cost-effective. 30122

(E) The department of health shall pay, from appropriations 30123
to the department, any necessary expenses, including but not 30124
limited to, expenses for diagnosis, treatment, service 30125
coordination, supportive services, transportation, and accessories 30126

and their upkeep, provided to medically handicapped children, 30127
provided that the provision of the goods or services is authorized 30128
by the department under division (B) or (D) of this section. Money 30129
appropriated to the department of health may also be expended for 30130
reasonable administrative costs incurred by the program. The 30131
department of health also may purchase liability insurance 30132
covering the provision of services under the program for medically 30133
handicapped children by physicians and other health care 30134
professionals. 30135

Payments made to providers by the department of health 30136
pursuant to this division for inpatient hospital care, outpatient 30137
care, and all other medical assistance furnished ~~by hospitals~~ to 30138
eligible recipients ~~shall be in accordance with methods~~ 30139
~~established by rules of the public health council. Until such~~ 30140
~~rules are adopted, the department of health shall make payments to~~ 30141
~~hospitals in accordance with reasonable cost principles for~~ 30142
~~reimbursement under the medicare program established under Title~~ 30143
~~XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42~~ 30144
~~U.S.C.A. 1395, as amended. Payments to providers for goods or~~ 30145
~~services other than inpatient or outpatient hospital care shall be~~ 30146
made in accordance with rules adopted by the public health council 30147
pursuant to division (A) of section 3701.021 of the Revised Code. 30148

The departments of health and job and family services shall 30149
jointly implement procedures to ensure that duplicate payments are 30150
not made under the program for medically handicapped children and 30151
the medical assistance program established under section 5111.01 30152
of the Revised Code and to identify and recover duplicate 30153
payments. 30154

(F)~~(1)~~ At the time of applying for participation in the 30155
program for medically handicapped children, a medically 30156
handicapped child or the child's parent or guardian shall disclose 30157
the identity of any third party against whom the child or the 30158

child's parent or guardian has or may have a right of recovery for 30159
goods and services provided under division (B) or (D) of this 30160
section. Except as provided in division (F)(2) of this section, 30161
the department of health shall require a medically handicapped 30162
child who receives services from the program or the child's parent 30163
or guardian to apply for all third-party benefits for which the 30164
child may be eligible and require the child, parent, or guardian 30165
to apply all third-party benefits received to the amount 30166
determined under division (E) of this section as the amount 30167
payable for goods and services authorized under division (B) or 30168
(D) of this section. The department is the payer of last resort 30169
and shall pay for authorized goods or services, up to the amount 30170
determined under division (E) of this section for the authorized 30171
goods or services, only to the extent that payment for the 30172
authorized goods or services is not made through third-party 30173
benefits. When a third party fails to act on an application or 30174
claim for benefits by a medically handicapped child or the child's 30175
parent or guardian, the department shall pay for the goods or 30176
services only after ninety days have elapsed since the date the 30177
child, parents, or guardians made an application or claim for all 30178
third-party benefits, except as provided in division (F)(2) of 30179
this section. Third-party benefits received shall be applied to 30180
the amount determined under division (E) of this section. 30181
Third-party payments for goods and services not authorized under 30182
division (B) or (D) of this section shall not be applied to 30183
payment amounts determined under division (E) of this section. 30184
Payment made by the department shall be considered payment in full 30185
of the amount determined under division (E) of this section. 30186
Medicaid payments for persons eligible for the medical assistance 30187
program established under section 5111.01 of the Revised Code 30188
shall be considered payment in full of the amount determined under 30189
division (E) of this section. 30190
~~(2) A medically handicapped child or the parent or guardian 30191~~

~~of such a child is not required to apply for assistance under the
medical assistance program established under section 5111.01 of
the Revised Code as a condition for eligibility under the program
for medically handicapped children if applying for or receiving
assistance under the medical assistance program violates a
religious belief of the child, parent, or guardian and a tenet of
the child's, parent's, or guardian's religion.~~

(G) The department of health shall administer a program to
provide services to Ohio residents who are twenty-one or more
years of age who ~~are suffering from~~ have cystic fibrosis and who
meet the eligibility requirements established by the rules of the
public health council pursuant to division (A)(7) of section
3701.021 of the Revised Code, subject to all provisions of this
section, but not subject to section 3701.024 of the Revised Code.

(H) The department of health shall provide for appeals, in
accordance with rules adopted under section 3701.021 of the
Revised Code, of denials of applications for the program for
medically handicapped children under division (A) or (D) of this
section, disqualification of providers, or amounts paid under
division (E) of this section. Appeals under this division are not
subject to Chapter 119. of the Revised Code.

The department may designate ombudspersons to assist
medically handicapped children or their parents or guardians, upon
the request of the children, parents, or guardians, in filing
appeals under this division and to serve as children's, parents',
or guardians' advocates in matters pertaining to the
administration of the program for medically handicapped children
and eligibility for program services. The ombudspersons shall
receive no compensation but shall be reimbursed by the department,
in accordance with rules of the office of budget and management,
for their actual and necessary travel expenses incurred in the
performance of their duties.

(I) The department of health, and city and general health districts providing service coordination pursuant to division (A)(2) of section 3701.024 of the Revised Code, shall provide service coordination in accordance with the standards set forth in the rules adopted under section 3701.021 of the Revised Code, without charge, and without restriction as to economic status.

Sec. 3701.146. (A) In taking actions regarding tuberculosis, the director of health has all of the following duties and powers:

~~(1) The director shall make payments to boards of county commissioners in accordance with section 339.77 of the Revised Code.~~

~~(2)~~ The director shall maintain registries of hospitals, clinics, physicians, or other care providers to whom the director shall refer persons who make inquiries to the department of health regarding possible exposure to tuberculosis.

~~(3)~~(2) The director shall engage in tuberculosis surveillance activities, including the collection and analysis of epidemiological information relative to the frequency of tuberculosis infection, demographic and geographic distribution of tuberculosis cases, and trends pertaining to tuberculosis.

~~(4)~~(3) The director shall maintain a tuberculosis registry to record the incidence of tuberculosis in this state.

~~(5)~~(4) The director may appoint physicians to serve as tuberculosis consultants for geographic regions of the state specified by the director. Each tuberculosis consultant shall act in accordance with rules the director establishes and shall be responsible for advising and assisting physicians and other health care practitioners who participate in tuberculosis control activities and for reviewing medical records pertaining to the treatment provided to individuals with tuberculosis.

(B)(1) The public health council shall adopt rules	30254
establishing standards for the following:	30255
(a) Performing tuberculosis screenings;	30256
(b) Performing examinations of individuals who have been	30257
exposed to tuberculosis and individuals who are suspected of	30258
having tuberculosis;	30259
(c) Providing treatment to individuals with tuberculosis;	30260
(d) Preventing individuals with communicable tuberculosis	30261
from infecting other individuals;	30262
(e) Performing laboratory tests for tuberculosis and studies	30263
of the resistance of tuberculosis to one or more drugs;	30264
(f) Selecting laboratories that provide in a timely fashion	30265
the results of a laboratory test for tuberculosis. The standards	30266
shall include a requirement that first consideration be given to	30267
laboratories located in this state.	30268
(2) Rules adopted pursuant to this section shall be adopted	30269
in accordance with Chapter 119. of the Revised Code and may be	30270
consistent with any recommendations or guidelines on tuberculosis	30271
issued by the United States centers for disease control and	30272
prevention or by the American thoracic society. The rules shall	30273
apply to county or district tuberculosis control units, physicians	30274
who examine and treat individuals for tuberculosis, and	30275
laboratories that perform tests for tuberculosis.	30276
Sec. 3701.65. (A) There is hereby created in the state	30277
treasury the "choose life" fund. The fund shall consist of the	30278
contributions that are paid to the registrar of motor vehicles by	30279
applicants who voluntarily elect to obtain "choose life" license	30280
plates pursuant to section 4503.91 of the Revised Code and any	30281
money returned to the fund under division (E)(1)(d) of this	30282
section. All investment earnings of the fund shall be credited to	30283

the fund. 30284

(B)(1) At least annually, the director of health shall 30285
distribute the money in the fund to any private, nonprofit 30286
organization that is eligible to receive funds under this section 30287
and that applies for funding under division (C) of this section. 30288

(2) The director shall distribute the funds based on the 30289
county in which the organization applying for funding is located 30290
and in proportion to the number of "choose life" license plates 30291
issued during the preceding year to vehicles registered in each 30292
county. Within each county, eligible organizations that apply for 30293
funding shall share equally in the funds available for 30294
distribution to organizations located within that county. 30295

(C) Any organization seeking funds under this section 30296
annually shall apply for distribution of the funds. The director 30297
shall develop an application form and may determine the schedule 30298
and procedures that an organization shall follow when annually 30299
applying for funds. The application shall inform the applicant of 30300
the conditions for receiving and using funds under division (E) of 30301
this section. The application shall require evidence that the 30302
organization meets all of the following requirements: 30303

(1) Is a private, nonprofit organization; 30304

(2) Is committed to counseling pregnant women about the 30305
option of adoption; 30306

(3) Provides services within the state to pregnant women who 30307
are planning to place their children for adoption, including 30308
counseling and meeting the material needs of the women; 30309

(4) Does not charge women for any services received; 30310

(5) Is not involved or associated with any abortion 30311
activities, including counseling for or referrals to abortion 30312
clinics, providing medical abortion-related procedures, or 30313

pro-abortion advertising; 30314

(6) Does not discriminate in its provision of any services on 30315
the basis of race, religion, color, age, marital status, national 30316
origin, handicap, gender, or age. 30317

(D) The director shall not distribute funds to an 30318
organization that does not provide verifiable evidence of the 30319
requirements specified in the application under division (C) of 30320
this section and shall not provide additional funds to any 30321
organization that fails to comply with division (E) of this 30322
section in regard to its previous receipt of funds under this 30323
section. 30324

(E)(1) An organization receiving funds under this section 30325
shall do all of the following: 30326

(a) Use not more than sixty per cent of the funds distributed 30327
to it for the material needs of pregnant women who are planning to 30328
place their children for adoption or for infants awaiting 30329
placement with adoptive parents, including clothing, housing, 30330
medical care, food, utilities, and transportation; 30331

(b) Use not more than forty per cent of the funds distributed 30332
to it for counseling, training, or advertising; 30333

(c) Not use any of the funds distributed to it for 30334
administrative expenses, legal expenses, or capital expenditures; 30335

(d) Annually return to the fund created under division (A) of 30336
this section any unused money that exceeds ten per cent of the 30337
money distributed to the organization. 30338

(2) The organization annually shall submit to the director an 30339
audited financial statement verifying its compliance with division 30340
(E)(1) of this section. 30341

(F) The director, in accordance with Chapter 119. of the 30342
Revised Code, shall adopt rules to implement this section. 30343

It is not the intent of the general assembly that the 30344
department create a new position within the department to 30345
implement and administer this section. It is the intent of the 30346
general assembly that the implementation and administration of 30347
this section be accomplished by existing department personnel. 30348

Sec. 3702.141. (A) As used in this section⁷: 30349

(1) "~~existing~~ Existing health care facility" ~~has~~ means a 30350
health care facility that is licensed or otherwise approved to 30351
practice in this state, in accordance with applicable law, is 30352
staffed and equipped to provide health care services, and actively 30353
provides health services or has not been actively providing health 30354
services for less than twelve consecutive months. 30355

(2) "Health care facility" and "health service" have the same 30356
meaning meanings as in section 3702.51 of the Revised Code. 30357

(B) Section 3702.14 of the Revised Code shall not be 30358
construed to require any existing health care facility that is 30359
conducting an activity specified in section 3702.11 of the Revised 30360
Code, which activity was initiated on or before March 20, 1997, to 30361
alter, upgrade, or otherwise improve the structure or fixtures of 30362
the facility in order to comply with any rule adopted under 30363
section 3702.11 of the Revised Code relating to that activity, 30364
unless one of the following applies: 30365

(1) The facility initiates a construction, renovation, or 30366
reconstruction project that involves a capital expenditure of at 30367
least fifty thousand dollars, not including expenditures for 30368
equipment or staffing or operational costs, and that directly 30369
involves the area in which the existing service is conducted. 30370

(2) The facility initiates another activity specified in 30371
section 3702.11 of the Revised Code. 30372

(3) The facility initiates a service level designation change 30373

for obstetric and newborn care. 30374

(4) The facility proposes to add a cardiac catheterization 30375
laboratory to an existing cardiac catheterization service. 30376

(5) The facility proposes to add an open-heart operating room 30377
to an existing open-heart surgery service. 30378

(6) The director of health determines, by clear and 30379
convincing evidence, that failure to comply with the rule would 30380
create an imminent risk to the health and welfare of any patient. 30381

(C) If division (B)(4) or (5) of this section applies, any 30382
alteration, upgrade, or other improvement required shall apply 30383
only to the proposed addition to the existing service if the cost 30384
of the addition is less than the capital expenditure threshold set 30385
forth in division (B)(1) of this section. 30386

(D) No person or government entity shall divide or otherwise 30387
segment a construction, renovation, or reconstruction project in 30388
order to evade application of the capital expenditure threshold 30389
set forth in division (B)(1) of this section. 30390

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the 30391
Revised Code: 30392

(A) "Applicant" means any person that submits an application 30393
for a certificate of need and who is designated in the application 30394
as the applicant. 30395

(B) "Person" means any individual, corporation, business 30396
trust, estate, firm, partnership, association, joint stock 30397
company, insurance company, government unit, or other entity. 30398

(C) "Certificate of need" means a written approval granted by 30399
the director of health to an applicant to authorize conducting a 30400
reviewable activity. 30401

(D) "Health service area" means a geographic region 30402

designated by the director of health under section 3702.58 of the Revised Code. 30403
30404

(E) "Health service" means a clinically related service, such as a diagnostic, treatment, rehabilitative, or preventive service. 30405
30406

(F) "Health service agency" means an agency designated to serve a health service area in accordance with section 3702.58 of the Revised Code. 30407
30408
30409

(G) "Health care facility" means: 30410

(1) A hospital registered under section 3701.07 of the Revised Code; 30411
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(2) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code; 30413
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30415

(3) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; 30416
30417
30418
30419

(4) A freestanding dialysis center; 30420

(5) A freestanding inpatient rehabilitation facility; 30421

(6) An ambulatory surgical facility; 30422

(7) A freestanding cardiac catheterization facility; 30423

(8) A freestanding birthing center; 30424

(9) A freestanding or mobile diagnostic imaging center; 30425

(10) A freestanding radiation therapy center. 30426

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~~ 30427
30428
30429
30430

~~director of mental retardation and developmental disabilities~~ 30431
~~under section 5123.041 of the Revised Code,~~ or an institution for 30432
the sick that is operated exclusively for patients who use 30433
spiritual means for healing and for whom the acceptance of medical 30434
care is inconsistent with their religious beliefs, accredited by a 30435
national accrediting organization, exempt from federal income 30436
taxation under section 501 of the Internal Revenue Code of 1986, 30437
100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing 30438
twenty-four hour nursing care pursuant to the exemption in 30439
division (E) of section 4723.32 of the Revised Code from the 30440
licensing requirements of Chapter 4723. of the Revised Code. 30441

(H) "Medical equipment" means a single unit of medical 30442
equipment or a single system of components with related functions 30443
that is used to provide health services. 30444

(I) "Third-party payer" means a health insuring corporation 30445
licensed under Chapter 1751. of the Revised Code, a health 30446
maintenance organization as defined in division (K) of this 30447
section, an insurance company that issues sickness and accident 30448
insurance in conformity with Chapter 3923. of the Revised Code, a 30449
state-financed health insurance program under Chapter 3701., 30450
4123., or 5111. of the Revised Code, or any self-insurance plan. 30451

(J) "Government unit" means the state and any county, 30452
municipal corporation, township, or other political subdivision of 30453
the state, or any department, division, board, or other agency of 30454
the state or a political subdivision. 30455

(K) "Health maintenance organization" means a public or 30456
private organization organized under the law of any state that is 30457
qualified under section 1310(d) of Title XIII of the "Public 30458
Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9. 30459

(L) "Existing health care facility" means a either of the 30460
following: 30461

(1) A health care facility that is licensed or otherwise 30462
approved authorized to practice operate in this state, in 30463
accordance with applicable law, is staffed and equipped to provide 30464
health care services, and is actively provides providing health 30465
services ~~or has not been actively providing health services for~~ 30466
~~less than twelve consecutive months;~~ 30467

(2) A health care facility that is licensed or has beds 30468
registered under section 3701.07 of the Revised Code as skilled 30469
nursing beds or long-term care beds and has provided services for 30470
at least three hundred sixty-five consecutive days within the 30471
twenty-four months immediately preceding the date a certificate of 30472
need application is filed with the director of health. 30473

(M) "State" means the state of Ohio, including, but not 30474
limited to, the general assembly, the supreme court, the offices 30475
of all elected state officers, and all departments, boards, 30476
offices, commissions, agencies, institutions, and other 30477
instrumentalities of the state of Ohio. "State" does not include 30478
political subdivisions. 30479

(N) "Political subdivision" means a municipal corporation, 30480
township, county, school district, and all other bodies corporate 30481
and politic responsible for governmental activities only in 30482
geographic areas smaller than that of the state to which the 30483
sovereign immunity of the state attaches. 30484

(O) "Affected person" means: 30485

(1) An applicant for a certificate of need, including an 30486
applicant whose application was reviewed comparatively with the 30487
application in question; 30488

(2) The person that requested the reviewability ruling in 30489
question; 30490

(3) Any person that resides or regularly uses health care 30491

facilities within the geographic area served or to be served by 30492
the health care services that would be provided under the 30493
certificate of need or reviewability ruling in question; 30494

(4) Any health care facility that is located in the health 30495
service area where the health care services would be provided 30496
under the certificate of need or reviewability ruling in question; 30497

(5) Third-party payers that reimburse health care facilities 30498
for services in the health service area where the health care 30499
services would be provided under the certificate of need or 30500
reviewability ruling in question; 30501

(6) Any other person who testified at a public hearing held 30502
under division (B) of section 3702.52 of the Revised Code or 30503
submitted written comments in the course of review of the 30504
certificate of need application in question. 30505

(P) "Osteopathic hospital" means a hospital registered under 30506
section 3701.07 of the Revised Code that advocates osteopathic 30507
principles and the practice and perpetuation of osteopathic 30508
medicine by doing any of the following: 30509

(1) Maintaining a department or service of osteopathic 30510
medicine or a committee on the utilization of osteopathic 30511
principles and methods, under the supervision of an osteopathic 30512
physician; 30513

(2) Maintaining an active medical staff, the majority of 30514
which is comprised of osteopathic physicians; 30515

(3) Maintaining a medical staff executive committee that has 30516
osteopathic physicians as a majority of its members. 30517

(Q) "Ambulatory surgical facility" has the same meaning as in 30518
section 3702.30 of the Revised Code. 30519

(R) Except as otherwise provided in division (T) of this 30520
section, and until the termination date specified in section 30521

3702.511 of the Revised Code, "reviewable activity" means any of	30522
the following:	30523
(1) The addition by any person of any of the following health	30524
services, regardless of the amount of operating costs or capital	30525
expenditures:	30526
(a) A heart, heart-lung, lung, liver, kidney, bowel,	30527
pancreas, or bone marrow transplantation service, a stem cell	30528
harvesting and reinfusion service, or a service for	30529
transplantation of any other organ unless transplantation of the	30530
organ is designated by public health council rule not to be a	30531
reviewable activity;	30532
(b) A cardiac catheterization service;	30533
(c) An open-heart surgery service;	30534
(d) Any new, experimental medical technology that is	30535
designated by rule of the public health council.	30536
(2) The acceptance of high-risk patients, as defined in rules	30537
adopted under section 3702.57 of the Revised Code, by any cardiac	30538
catheterization service that was initiated without a certificate	30539
of need pursuant to division (R)(3)(b) of the version of this	30540
section in effect immediately prior to April 20, 1995;	30541
(3)(a) The establishment, development, or construction of a	30542
new health care facility other than a new long-term care facility	30543
or a new hospital;	30544
(b) The establishment, development, or construction of a new	30545
hospital or the relocation of an existing hospital;	30546
(c) The relocation of hospital beds, other than long-term	30547
care, perinatal, or pediatric intensive care beds, into or out of	30548
a rural area.	30549
(4)(a) The replacement of an existing hospital;	30550

(b) The replacement of an existing hospital obstetric or newborn care unit or freestanding birthing center.	30551 30552
(5)(a) The renovation of a hospital that involves a capital expenditure, obligated on or after the effective date of this amendment <u>June 30, 1995</u> , 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:	30553 30554 30555 30556 30557 30558
(i) When a contract enforceable under Ohio law is entered into for the construction, acquisition, lease, or financing of a capital asset;	30559 30560 30561
(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;	30562 30563 30564
(iii) In the case of donated property, on the date the gift is completed under applicable Ohio law.	30565 30566
(b) The renovation of a hospital obstetric or newborn care unit or freestanding birthing center that involves a capital expenditure of five million dollars or more, not including expenditures for equipment, staffing, or operational costs.	30567 30568 30569 30570
(6) Any change in the health care services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accord with the approved application for which a certificate of need was granted, if the change is made prior to the date the activity for which the certificate was issued ceases to be a reviewable activity;	30571 30572 30573 30574 30575 30576
(7) Any of the following changes in perinatal bed capacity or pediatric intensive care bed capacity:	30577 30578
(a) An increase in bed capacity;	30579
(b) A change in service or service-level designation of	30580

newborn care beds or obstetric beds in a hospital or freestanding
birthing center, other than a change of service that is provided
within the service-level designation of newborn care or obstetric
beds as registered by the department of health;

(c) A relocation of perinatal or pediatric intensive care
beds from one physical facility or site to another, excluding the
relocation of beds within a hospital or freestanding birthing
center or the relocation of beds among buildings of a hospital or
freestanding birthing center at the same site.

(8) The expenditure of more than one hundred ten per cent of
the maximum expenditure specified in a certificate of need;

(9) Any transfer of a certificate of need 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 a
certificate of need issued prior to that date upon completion of
the project, and any transfer of the controlling interest in an
entity that holds a certificate of need issued prior to that date.
However, the transfer of a certificate of need issued prior to
that date or agreement to transfer such a certificate of need from
the person to whom the certificate of need was issued to an
affiliated or related person does not constitute a reviewable
transfer of a certificate of need for the 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.

(10)(a) The acquisition by any person of any of the following
medical equipment, regardless of the amount of operating costs or
capital expenditure:

(i) A cobalt radiation therapy unit;

(ii) A linear accelerator;

(iii) A gamma knife unit.	30612
(b) The acquisition by any person of medical equipment with a cost of two million dollars or more. The cost of acquiring medical equipment includes the sum of the following:	30613 30614 30615
(i) The greater of its fair market value or the cost of its lease or purchase;	30616 30617
(ii) The cost of installation and any other activities essential to the acquisition of the equipment and its placement into service.	30618 30619 30620
(11) The addition of another cardiac catheterization laboratory to an existing cardiac catheterization service.	30621 30622
(S) Except as provided in division (T) of this section, "reviewable activity" also means any of the following activities, none of which are subject to a termination date:	30623 30624 30625
(1) The establishment, development, or construction of a new long-term care facility;	30626 30627
(2) The replacement of an existing long-term care facility;	30628
(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;	30629 30630 30631 30632
(4) Any of the following changes in long-term care bed capacity:	30633 30634
(a) An increase in bed capacity;	30635
(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;	30636 30637 30638 30639
(c) A recategorization of hospital beds registered under	30640

section 3701.07 of the Revised Code from another registration 30641
category to skilled nursing beds or long-term care beds. 30642

(5) Any change in the health services, bed capacity, or site, 30643
or any other failure to conduct the reviewable activity in 30644
substantial accordance with the approved application for which a 30645
certificate of need concerning long-term care beds was granted, if 30646
the change is made within five years after the implementation of 30647
the reviewable activity for which the certificate was granted; 30648

(6) The expenditure of more than one hundred ten per cent of 30649
the maximum expenditure specified in a certificate of need 30650
concerning long-term care beds; 30651

(7) Any transfer of a certificate of need that concerns 30652
long-term care beds and was issued prior to April 20, 1995, from 30653
the person to whom it was issued to another person before the 30654
project that constitutes a reviewable activity is completed, any 30655
agreement that contemplates the transfer of such a certificate of 30656
need upon completion of the project, and any transfer of the 30657
controlling interest in an entity that holds such a certificate of 30658
need. However, the transfer of a certificate of need that concerns 30659
long-term care beds and was issued prior to April 20, 1995, or 30660
agreement to transfer such a certificate of need from the person 30661
to whom the certificate was issued to an affiliated or related 30662
person does not constitute a reviewable transfer of a certificate 30663
of need for purposes of this division, unless the transfer results 30664
in a change in the person that holds the ultimate controlling 30665
interest in the certificate of need. 30666

(T) "Reviewable activity" does not include any of the 30667
following activities: 30668

(1) Acquisition of computer hardware or software; 30669

(2) Acquisition of a telephone system; 30670

(3) Construction or acquisition of parking facilities;	30671
(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;	30672 30673 30674
(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;	30675 30676 30677
(6) Correction of cited deficiencies identified by accreditation surveys of the joint commission on accreditation of healthcare organizations or of the American osteopathic association;	30678 30679 30680 30681
(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;	30682 30683 30684
(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;	30685 30686 30687 30688
(9) Construction, repair, or renovation of bathroom facilities;	30689 30690
(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;	30691 30692 30693 30694
(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	30695 30696 30697 30698 30699 30700

drug administration to provide services for which patients or
reimbursement entities will be charged shall be a reviewable
activity. 30701
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(12) Removal of asbestos from a health care facility. 30704

Only that portion of a project that meets the requirements of
division (T) of this section is not a reviewable activity. 30705
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(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. 30707
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(V) "Children's hospital" means any of the following: 30711

(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; 30712
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(2) 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; 30717
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(3) 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 (V)(1) of this section. 30724
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(W) "Long-term care facility" means any of the following: 30728

(1) A nursing home licensed under section 3721.02 of the
Revised Code or by a political subdivision certified under section 30729
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3721.09 of the Revised Code;	30731
(2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act";	30732 30733 30734 30735
(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds.	30736 30737 30738
(X) "Long-term care bed" means a bed in a long-term care facility.	30739 30740
(Y) "Perinatal bed" means a bed in a hospital that is registered under section 3701.07 of the Revised Code as a newborn care bed or obstetric bed, or a bed in a freestanding birthing center.	30741 30742 30743 30744
(Z) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter 3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit.	30745 30746 30747 30748 30749 30750
(AA)(1) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is not a reviewable activity.	30751 30752 30753 30754
(2) "Nonreviewability ruling" means a ruling issued under that division that a particular proposed project is not a reviewable activity.	30755 30756 30757
(BB)(1) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of	30758 30759 30760

management and budget bulletin No. 93-17, June 30, 1993, and its 30761
attachments. 30762

(2) "Rural area" means any area of this state not located 30763
within a metropolitan statistical area. 30764

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 30765
of the Revised Code, this section applies to the review of 30766
certificate of need applications during the period beginning July 30767
1, 1993, and ending June 30, ~~2005~~ 2007. 30768

As used in this section, "existing health care facility" has 30769
the same meaning as in section 3702.51 of the Revised Code. 30770

(B)(1) Except as provided in division (B)(2) of this section, 30771
the director of health shall neither grant nor deny any 30772
application for a certificate of need submitted prior to July 1, 30773
1993, if the application was for any of the following and the 30774
director had not issued a written decision concerning the 30775
application prior to that date: 30776

(a) Approval of beds in a new health care facility or an 30777
increase of beds in an existing health care facility, if the beds 30778
are proposed to be licensed as nursing home beds under Chapter 30779
3721. of the Revised Code; 30780

(b) Approval of beds in a new county home or new county 30781
nursing home as defined in section 5155.31 of the Revised Code, or 30782
an increase of beds in an existing county home or existing county 30783
nursing home, if the beds are proposed to be certified as skilled 30784
nursing facility beds under Title XVIII or nursing facility beds 30785
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 30786
42 U.S.C.A. 301, as amended; 30787

(c) Recategorization of hospital beds as described in section 30788
3702.522 of the Revised Code, an increase of hospital beds 30789
registered pursuant to section 3701.07 of the Revised Code as 30790

long-term care beds or skilled nursing facility beds, or a 30791
recategorization of hospital beds that would result in an increase 30792
of beds registered pursuant to that section as long-term care beds 30793
or skilled nursing facility beds. 30794

On July 1, 1993, the director shall return each such 30795
application to the applicant and, notwithstanding section 3702.52 30796
of the Revised Code regarding the uses of the certificate of need 30797
fund, shall refund to the applicant the application fee paid under 30798
that section. Applications returned under division (B)(1) of this 30799
section may be resubmitted in accordance with section 3702.52 of 30800
the Revised Code no sooner than July 1, ~~2005~~ 2007. 30801

(2) The director shall continue to review and shall issue a 30802
decision regarding any application submitted prior to July 1, 30803
1993, to increase beds for either of the purposes described in 30804
division (B)(1)(a) or (b) of this section if the proposed increase 30805
in beds is attributable solely to a replacement or relocation of 30806
existing beds within the same county. The director shall authorize 30807
under such an application no additional beds beyond those being 30808
replaced or relocated. 30809

(C)(1) Except as provided in division (C)(2) of this section, 30810
the director, during the period beginning July 1, 1993, and ending 30811
June 30, ~~2005~~ 2007, shall not accept for review under section 30812
3702.52 of the Revised Code any application for a certificate of 30813
need for any of the purposes described in divisions (B)(1)(a) to 30814
(c) of this section. 30815

(2)(a) The director shall accept for review any application 30816
for either of the purposes described in division (B)(1)(a) or (b) 30817
of this section if the proposed increase in beds is attributable 30818
solely to a replacement or relocation of existing beds from an 30819
existing health care facility within the same county. The director 30820
shall authorize under such an application no additional beds 30821

beyond those being replaced or relocated. The 30822

The director shall not approve an application for a 30823
certificate of need for addition of long-term care beds to an 30824
existing health care facility by relocation of beds or for the 30825
development of a new health care facility by relocation of beds 30826
unless all of the following conditions are met: 30827

(i) The existing health care facility to which the beds are 30828
being relocated has no life safety code waivers, no state fire 30829
code violations, and no state building code violations; 30830

(ii) During the sixty month period preceding the filing of 30831
the application, no notice of proposed revocation of the 30832
facility's license was issued under section 3721.03 of the Revised 30833
Code to the operator of the existing facility to which the beds 30834
are being relocated or to any health care facility owned or 30835
operated by the applicant or any principal participant in the same 30836
corporation or other business; 30837

(iii) Neither the existing health care facility to which the 30838
beds are being relocated nor any health care facility owned or 30839
operated by the applicant or any principal participant in the same 30840
corporation or other business has had a long-standing pattern of 30841
violations of this chapter or deficiencies that caused one or more 30842
residents physical, emotional, mental, or psychosocial harm. 30843

(b) The director also shall accept for review any application 30844
for either of the purposes described in division (B)(1)(a) or (b) 30845
of this section if the proposed increase in beds is attributable 30846
solely to the conversion of residential care facility beds 30847
licensed under Chapter 3721. of the Revised Code to nursing home 30848
beds that are licensed under that chapter, are located in the same 30849
existing health care facility, and were previously converted from 30850
nursing home beds to residential care facility beds for the 30851
purpose of the facility's participation in the assisted living 30852

program as defined in section 5111.89 of the Revised Code. The 30853
director shall authorize under such an application no additional 30854
beds beyond those being converted from residential care facility 30855
beds to nursing home beds. 30856

(c) The director also shall accept for review any application 30857
that seeks certificate of need approval for existing the 30858
conversion of infirmary beds located in an to long-term care beds 30859
if the infirmary that is meets all of the following conditions: 30860

(i) Is operated exclusively by a religious order, provides; 30861

(ii) Provides care exclusively to members of religious orders 30862
who take vows of celibacy and live by virtue of their vows within 30863
the orders as if related, ~~and was;~~ 30864

(iii) Was providing care exclusively to members of such a 30865
religious order on January 1, 1994. 30866

(D) The director shall issue a decision regarding any case 30867
remanded by a court as the result of a decision issued by the 30868
director prior to July 1, 1993, to grant, deny, or withdraw a 30869
certificate of need for any of the purposes described in divisions 30870
(B)(1)(a) to (c) of this section. 30871

(E) The director shall not project the need for beds listed 30872
in division (B)(1) of this section for the period beginning July 30873
1, 1993, and ending June 30, ~~2005~~ 2007. 30874

This section is an interim section effective until July 1, 30875
~~2005~~ 2007. 30876

Sec. 3702.74. (A) A primary care physician who has signed a 30877
letter of intent under section 3702.73 of the Revised Code, the 30878
director of health, and the Ohio board of regents may enter into a 30879
contract for the physician's participation in the physician loan 30880
repayment program. A lending institution may also be a party to 30881
the contract. 30882

(B) The contract shall include all of the following obligations: 30883
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(1) The primary care physician agrees to provide primary care services in the health resource shortage area identified in the letter of intent for at least two years or one year per twenty thousand dollars of repayment agreed to under division (B)(3) of this section, whichever is greater; 30885
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(2) When providing primary care services in the health resource shortage area, the primary care physician agrees to do all of the following: 30890
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(a) Provide primary care services for a minimum of forty hours per week; 30893
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(b) Provide primary care services without regard to a patient's ability to pay; 30895
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(c) Meet the conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the department of job and family services for participation in the medical assistance program established under Chapter 5111. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of the medical assistance program; 30897
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~~(d) Meet the conditions established by the department of job and family services for participation in the disability medical assistance program established under Chapter 5115. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of disability medical assistance.~~ 30904
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(3) The Ohio board of regents agrees, as provided in section 3702.75 of the Revised Code, to repay, so long as the primary care physician performs the service obligation agreed to under division 30910
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(B)(1) of this section, all or part of the principal and interest
of a government or other educational loan taken by the primary
care physician for expenses described in section 3702.75 of the
Revised Code;

(4) The primary care physician agrees to pay the board the
following as damages if the physician fails to complete the
service obligation agreed to under division (B)(1) of this
section:

(a) If the failure occurs during the first two years of the
service obligation, three times the total amount the board has
agreed to repay under division (B)(3) of this section;

(b) If the failure occurs after the first two years of the
service obligation, three times the amount the board is still
obligated to repay under division (B)(3) of this section.

(C) The contract may include any other terms agreed upon by
the parties, including an assignment to the Ohio board of regents
of the physician's duty to pay the principal and interest of a
government or other educational loan taken by the physician for
expenses described in section 3702.75 of the Revised Code. If the
board assumes the physician's duty to pay a loan, the contract
shall set forth the total amount of principal and interest to be
paid, an amortization schedule, and the amount of each payment to
be made under the schedule.

Sec. 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 30943
program, the department of health shall accept and review 30944
applications for placement of persons seeking to remain in the 30945
United States pursuant to the "Immigration and Nationality Act," 30946
66 Stat. 163 (1952), 8 U.S.C. 1182(J)(1) and 1184(l), as amended, 30947
by obtaining a waiver of the federal requirement that they return 30948
to their home countries for a minimum of two years after 30949
completing the graduate medical education or training for which 30950
they were admitted to the United States. The department shall 30951
administer the program in accordance with the "Immigration and 30952
Nationality Act" and the regulations adopted under it. 30953

For each application accepted for review under this section, 30954
the department shall charge a fee of three thousand five hundred 30955
seventy-one dollars. The fee is nonrefundable. All fees collected 30956
shall be deposited into the state treasury to the credit of 30957
general operations fund created in section 3701.83 of the Revised 30958
Code. 30959

Sec. 3703.01. (A) The division of industrial compliance in 30960
the department of commerce shall: 30961

(1) Inspect all nonresidential buildings within the meaning 30962
of section 3781.06 of the Revised Code; 30963

(2) Condemn all unsanitary or defective plumbing that is 30964
found in connection with those places; 30965

(3) Order changes in plumbing necessary to insure the safety 30966
of the public health. 30967

(B)(1) The division of industrial compliance and boards of 30968
health of city and general health districts shall not inspect 30969
plumbing or collect fees for inspecting plumbing in particular 30970
types of buildings in any municipal corporation that has been 30971
certified by the board of building standards under section 3781.10 30972

of the Revised Code to exercise enforcement authority for plumbing 30973
in such types of buildings. 30974

(2) The division shall not inspect plumbing or collect fees 30975
for inspecting plumbing in particular types of buildings in any 30976
health district that has employed one or more approved plumbing 30977
inspectors to enforce Chapters 3781. and 3791. of the Revised Code 30978
and the rules adopted pursuant to those chapters relating to 30979
plumbing in such types of buildings. 30980

(3) A municipal corporation does not have jurisdiction to 30981
inspect plumbing or collect fees for the inspection of plumbing in 30982
types of buildings for which it has not been certified by the 30983
board of building standards under section 3781.10 of the Revised 30984
Code to exercise enforcement authority. 30985

(4) A board of health of a health district does not have 30986
jurisdiction to inspect plumbing or collect fees for the 30987
inspection of plumbing in types of buildings for which it does not 30988
have an approved plumbing inspector. 30989

(C) The superintendent of industrial compliance shall adopt 30990
rules prescribing minimum qualifications based on education, 30991
training, experience, or demonstrated ability, which the ~~director~~ 30992
superintendent shall use in approving certifying or recertifying 30993
plumbing inspectors to do plumbing inspections for health 30994
districts and for continuing education of plumbing inspectors. 30995
Such minimum qualifications shall be related to the types of 30996
buildings for which a person seeks approval. 30997

(D) The superintendent may enter into reciprocal 30998
registration, licensure, or certification agreements with other 30999
states and other agencies of this state relative to plumbing 31000
inspectors if both of the following apply: 31001

(1) The requirements for registration, licensure, or 31002
certification of plumbing inspectors under the laws of the other 31003

state or laws administered by the other agency are substantially 31004
equal to the requirements the superintendent adopts under division 31005
(C) of this section for certifying plumbing inspectors. 31006

(2) The other state or agency extends similar reciprocity to 31007
persons certified under this chapter. 31008

(E) The superintendent may select and contract with one or 31009
more persons to do all of the following regarding examinations for 31010
certification of plumbing inspectors: 31011

(1) Prepare, administer, score, and maintain the 31012
confidentiality of the examination; 31013

(2) Maintain responsibility for all expenses required to 31014
comply with division (E)(1) of this section; 31015

(3) Charge each applicant a fee for administering the 31016
examination in an amount the superintendent authorizes; 31017

(4) Design the examination for certification of plumbing 31018
inspectors to determine an applicant's competence to inspect 31019
plumbing. 31020

(F) Standards and methods prescribed in local plumbing 31021
regulations shall not be less than those prescribed in Chapters 31022
3781. and 3791. of the Revised Code and the rules adopted pursuant 31023
to those chapters. 31024

~~(E)~~(G) Notwithstanding any other provision of this section, 31025
the division shall make a plumbing inspection of any building or 31026
other place that there is reason to believe is in a condition to 31027
be a menace to the public health. 31028

Sec. 3703.03. In the administration of sections 3703.01 to 31029
3703.09 of the Revised Code, the division of industrial compliance 31030
in the department of commerce shall enforce rules governing 31031
plumbing adopted by the board of building standards under 31032

authority of sections 3781.10 and 3781.11 of the Revised Code, and 31033
register those persons engaged in or at the plumbing business. 31034

Plans and specifications for all plumbing to be installed in 31035
or for buildings coming within such sections shall be submitted to 31036
and approved by the division before the contract for plumbing is 31037
let. 31038

Sec. 3703.04. The ~~director~~ superintendent of ~~commerce~~ 31039
industrial compliance shall appoint such number of plumbing 31040
inspectors as is required. The inspectors shall be practical 31041
plumbers with at least seven years' experience, and skilled and 31042
well-trained in matters pertaining to sanitary regulations 31043
concerning plumbing work. 31044

~~No plumbing inspector employed by the department and assigned 31045
to the enforcement of this chapter shall be engaged or interested 31046
in the plumbing business or the sale of any plumbing supplies, nor 31047
shall the inspector act as agent, directly or indirectly, for any 31048
person so engaged.~~ 31049

Sec. 3703.05. Plumbing inspectors employed by the ~~department~~ 31050
division of commerce industrial compliance assigned to the 31051
enforcement of sections 3703.01 to 3703.09 of the Revised Code, 31052
may, between sunrise and sunset, enter any building where there is 31053
good and sufficient reason to believe that the sanitary condition 31054
of the premises endangers the public health, for the purpose of 31055
making an inspection to ascertain the condition of the premises. 31056

Sec. 3703.06. When any building is found to be in a sanitary 31057
condition or when changes which are ordered, under authority of 31058
this chapter, in the plumbing, drainage, or ventilation have been 31059
made, and after a thorough inspection and approval by the ~~division~~ 31060
superintendent of industrial compliance ~~in the department of~~ 31061
~~commerce~~, the ~~division~~ superintendent shall issue a certificate 31062

~~signed by the superintendent of the division of industrial~~ 31063
~~compliance~~, which ~~must~~ shall be posted in a conspicuous place for 31064
the benefit of the public at large. Upon notification by the 31065
superintendent, the certificate shall be revoked for any violation 31066
of those sections. 31067

Sec. 3703.07. No plumbing work shall be done in any building 31068
or place coming within the jurisdiction of the ~~department~~ division 31069
of ~~commerce~~ industrial compliance, except in cases of repairs or 31070
leaks in existing plumbing, until a permit has been issued by the 31071
~~department~~ division. 31072

Before granting such permit, an application shall be made by 31073
the owner of the property or by the person, firm, or corporation 31074
which is to do the work. The application shall be made on a form 31075
prepared by the ~~department~~ division for the purpose, and each 31076
application shall be accompanied by a fee of twenty-seven dollars, 31077
and an additional fee of seven dollars for each trap, vented 31078
fixture, appliance, or device. Each application also shall be 31079
accompanied by a plan approval fee of eighteen dollars for work 31080
containing one through twenty fixtures; thirty-six dollars for 31081
work containing twenty-one through forty fixtures; and fifty-four 31082
dollars for work containing forty-one or more fixtures. 31083

Whenever a reinspection is made necessary by the failure of 31084
the applicant or plumbing contractor to have the work ready for 31085
inspection when so reported, or by reason of faulty or improper 31086
installation, the person shall pay a fee of forty-five dollars for 31087
each reinspection. 31088

All fees collected pursuant to this section shall be paid 31089
into the state treasury to the credit of the industrial compliance 31090
operating fund created in section 121.084 of the Revised Code. 31091

The ~~director~~ superintendent of ~~commerce~~ industrial 31092
compliance, by rule adopted in accordance with Chapter 119. of the 31093

Revised Code, may increase the fees required by this section and 31094
may establish fees to pay the costs of the division to fulfill its 31095
duties established by this chapter, including, but not limited to, 31096
fees for administering a program for continuing education for, and 31097
certifying and recertifying plumbing inspectors. The fees shall 31098
bear some reasonable relationship to the cost of administering and 31099
enforcing the provisions of this chapter. 31100

Sec. 3703.08. Any owner, agent, or manager, of a building in 31101
which an inspection is made by the ~~department~~ division of ~~commerce~~ 31102
industrial compliance, a board of health of a health district, or 31103
a certified department of building inspection of a municipal 31104
corporation, shall have the entire system of drainage and 31105
ventilation repaired, as the ~~department of commerce~~ division, 31106
board of health, or department of building inspection directs by 31107
its order. After due notice to repair such work is given, the 31108
owner, agent, or manager shall notify the public authority that 31109
issued the order when the work is ready for its inspection. No 31110
person shall fail to have the work ready for inspection at the 31111
time specified in the notice. 31112

Sec. 3703.10. All prosecutions and proceedings by the 31113
~~department~~ division of ~~commerce~~ industrial compliance for the 31114
violation of sections 3703.01 to 3703.09 of the Revised Code, or 31115
for the violation of any of the orders or rules of the ~~department~~ 31116
division under those sections, shall be instituted by the ~~director~~ 31117
superintendent of ~~commerce~~ industrial compliance. All fines or 31118
judgments collected by the ~~department~~ division shall be paid into 31119
the state treasury to the credit of the industrial compliance 31120
operating fund created by section 121.084 of the Revised Code. 31121

The ~~director~~ superintendent, the board of health of a general 31122
or city health district, or any person charged with enforcing the 31123
rules of the ~~department~~ division adopted under sections 3703.01 to 31124

3703.09 of the Revised Code may petition the court of common pleas 31125
for injunctive or other appropriate relief requiring any person 31126
violating a rule adopted or order issued by the ~~director~~ 31127
superintendent under those sections to comply with the rule or 31128
order. The court of common pleas of the county in which the 31129
offense is alleged to be occurring may grant injunctive or other 31130
appropriate relief. 31131

The superintendent may do all of the following: 31132

(A) Deny an applicant certification as a plumbing inspector; 31133

(B) Suspend or revoke the certification of a plumbing 31134
inspector; 31135

(C) Examine any certified plumbing inspector under oath; 31136

(D) Examine the records and books of any certified plumbing 31137
inspector if the superintendent finds the material to be examined 31138
relevant to a determination described in division (A), (B), or (C) 31139
of this section. 31140

Sec. 3703.99. Whoever violates sections 3703.01 to 3703.09 of 31141
the Revised Code, or any rule the ~~department~~ division of ~~commerce~~ 31142
industrial compliance is required to enforce under such sections, 31143
shall be fined not less than ten nor more than one hundred dollars 31144
or imprisoned for not less than ten nor more than ninety days, or 31145
both. No person shall be imprisoned under this section for the 31146
first offense, and the prosecution always shall be as for a first 31147
offense unless the affidavit upon which the prosecution is 31148
instituted contains the allegation that the offense is a second or 31149
repeated offense. 31150

Sec. 3705.24. (A)(1) The public health council shall, in 31151
accordance with section 111.15 of the Revised Code, adopt rules 31152
prescribing fees for the following services provided by the state 31153
office of vital statistics: 31154

(a) Except as provided in division (A)(4) of this section:	31155
(i) A certified copy of a vital record or a certification of birth;	31156 31157
(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;	31158 31159 31160
(iii) A copy of a record provided pursuant to a request;	31161
(b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order;	31162 31163 31164
(c) Filing of a delayed registration of a vital record;	31165
(d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;	31166 31167
(e) Any other documents or services for which the public health council considers the charging of a fee appropriate.	31168 31169
(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than seven dollars.	31170 31171
(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fee <u>fees</u> required by section <u>sections 3109.14 and 3705.242</u> of the Revised Code.	31172 31173 31174
(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code.	31175 31176 31177 31178
(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics or the board of health of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee	31179 31180 31181 31182 31183

shall be deposited in the general operations fund created under 31184
section 3701.83 of the Revised Code and be used solely toward the 31185
modernization and automation of the system of vital records in 31186
this state. A board of health shall forward all fees collected 31187
under this division to the department of health not later than 31188
thirty days after the end of each calendar quarter. 31189

(C) Except as otherwise provided in division (H) of this 31190
section, and except as provided in section 3705.241 of the Revised 31191
Code, fees collected by the director of health under sections 31192
3705.01 to 3705.29 of the Revised Code shall be paid into the 31193
state treasury to the credit of the general operations fund 31194
created by section 3701.83 of the Revised Code. Except as provided 31195
in division (B) of this section, money generated by the fees shall 31196
be used only for administration and enforcement of this chapter 31197
and the rules adopted under it. Amounts submitted to the 31198
department of health for copies of vital records or services in 31199
excess of the fees imposed by this section shall be dealt with as 31200
follows: 31201

(1) An overpayment of two dollars or less shall be retained 31202
by the department and deposited in the state treasury to the 31203
credit of the general operations fund created by section 3701.83 31204
of the Revised Code. 31205

(2) An overpayment in excess of two dollars shall be returned 31206
to the person who made the overpayment. 31207

(D) If a local registrar is a salaried employee of a city or 31208
a general health district, any fees the local registrar receives 31209
pursuant to section 3705.23 of the Revised Code shall be paid into 31210
the general fund of the city or the health fund of the general 31211
health district. 31212

Each local registrar of vital statistics, or each health 31213
district where the local registrar is a salaried employee of the 31214

district, shall be entitled to a fee for each birth, fetal death, 31215
death, or military service certificate properly and completely 31216
made out and registered with the local registrar or district and 31217
correctly copied and forwarded to the office of vital statistics 31218
in accordance with the population of the primary registration 31219
district at the last federal census. The fee for each birth, fetal 31220
death, death, or military service certificate shall be: 31221

(1) In primary registration districts of over two hundred 31222
fifty thousand, twenty cents; 31223

(2) In primary registration districts of over one hundred 31224
twenty-five thousand and less than two hundred fifty thousand, 31225
sixty cents; 31226

(3) In primary registration districts of over fifty thousand 31227
and less than one hundred twenty-five thousand, eighty cents; 31228

(4) In primary registration districts of less than fifty 31229
thousand, one dollar. 31230

(E) The director of health shall annually certify to the 31231
county treasurers of the several counties the number of birth, 31232
fetal death, death, and military service certificates registered 31233
from their respective counties with the names of the local 31234
registrars and the amounts due each registrar and health district 31235
at the rates fixed in this section. Such amounts shall be paid by 31236
the treasurer of the county in which the registration districts 31237
are located. No fees shall be charged or collected by registrars 31238
except as provided by this chapter and section 3109.14 of the 31239
Revised Code. 31240

(F) A probate judge shall be paid a fee of fifteen cents for 31241
each certified abstract of marriage prepared and forwarded by the 31242
probate judge to the department of health pursuant to section 31243
3705.21 of the Revised Code. The fee shall be in addition to the 31244
fee paid for a marriage license and shall be paid by the 31245

applicants for the license.

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(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.

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(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code.

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Sec. 3705.242. (A)(1) The director of health, a person authorized by the director, a local commissioner of health, or a local registrar of vital statistics shall charge and collect a fee of one dollar and fifty cents for each certified copy of a birth record, each certification of birth, and each copy of a death record. The fee is in addition to the fee imposed by section 3705.24 or any other section of the Revised Code. A local

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commissioner of health or local registrar of vital statistics may 31277
retain an amount of each additional fee collected, not to exceed 31278
three per cent of the amount of the additional fee, to be used for 31279
costs directly related to the collection of the fee and the 31280
forwarding of the fee to the treasurer of state. 31281

(2) On the filing of a divorce decree under section 3105.10 31282
or a decree of dissolution under section 3105.65 of the Revised 31283
Code, a court of common pleas shall charge and collect a fee of 31284
five dollars and fifty cents. The fee is in addition to any other 31285
court costs or fees. The county clerk of courts may retain an 31286
amount of each additional fee collected, not to exceed three per 31287
cent of the amount of the additional fee, to be used for costs 31288
directly related to the collection of the fee and the forwarding 31289
of the fee to the treasurer of state. 31290

(B) The additional fees collected, but not retained, under 31291
this section during each month shall be forwarded not later than 31292
the tenth day of the immediately following month to the treasurer 31293
of state, who shall deposit the fees in the state treasury to the 31294
credit of the family violence prevention fund, which is hereby 31295
created. A person or government entity that fails to forward the 31296
fees in a timely manner, as determined by the treasurer of state, 31297
shall forward to the treasurer of state, in addition to the fees, 31298
a penalty equal to ten per cent of the fees. 31299

The treasurer of state shall invest the moneys in the fund. 31300
All earnings resulting from investment of the fund shall be 31301
credited to the fund, except that actual administration costs 31302
incurred by the treasurer of state in administering the fund may 31303
be deducted from the earnings resulting from investments. The 31304
amount that may be deducted shall not exceed three per cent of the 31305
total amount of fees credited to the fund in each fiscal year. The 31306
balance of the investment earnings shall be credited to the fund. 31307

(C) The director of public safety shall use money credited to 31308
the fund to provide grants to family violence shelters in Ohio. 31309

Sec. 3709.29. If the estimated amount of money necessary to 31310
meet the expenses of a general health district program will not be 31311
forthcoming to the board of health of ~~such~~ the district out of the 31312
district health fund because the taxes within the ten-mill 31313
limitation will be insufficient, the board of health shall certify 31314
~~the fact of such~~ that there is an insufficiency of funds for the 31315
program to the board of county commissioners of the county in 31316
which ~~such~~ the district is located. ~~Such~~ The board of county 31317
commissioners is ~~hereby ordained~~ considered to be a special taxing 31318
authority for the purposes of this section only, and, 31319
notwithstanding any other law to the contrary, the board of county 31320
commissioners of any county in which a general health district is 31321
located is the taxing authority for ~~such~~ a special levy under this 31322
section outside the ten-mill limitation. ~~The~~ 31323

Upon receipt of the board of health's certification, the 31324
board of county commissioners ~~shall thereupon~~, in the year 31325
preceding that in which ~~such~~ the general health district program 31326
will be effective, by vote of two-thirds of all the members of 31327
that body, shall declare by resolution that the amount of taxes 31328
~~which that~~ may be raised within the ten-mill limitation will be 31329
insufficient to provide an adequate amount for the necessary 31330
requirements of ~~such~~ the district within the county, and that it 31331
is necessary to levy a tax in excess of ~~such~~ the limitation in 31332
order to provide the board of health with sufficient funds to 31333
carry out ~~such health~~ the program, including its costs of office 31334
space and utilities. ~~Such~~ The resolution shall be filed with the 31335
board of elections not later than four p.m. of the seventy-fifth 31336
day before the day of the relevant primary or general election- 31337

~~Such resolution~~ and shall specify the amount of increase in 31338

rate ~~which~~ that it is necessary to levy and the number of years 31339
during which ~~such~~ the increase ~~shall~~ will be in effect, which 31340
shall not be for a longer period than ten years. The 31341

~~The~~ resolution shall conform to section 5705.191 of the 31342
Revised Code and be certified and submitted in the manner provided 31343
in section 5705.25 of the Revised Code, provided that the proposal 31344
shall be placed on the ballot at the next primary or general 31345
election occurring more than seventy-five days after the 31346
resolution is filed with the board of elections. 31347

Sec. 3709.34. (A) ~~The board of county commissioners or the~~ 31348
legislative authority of any city may furnish suitable quarters 31349
for any board of health or health department having jurisdiction 31350
over all or a major part of ~~such county or~~ that city. 31351

(B)(1) Subject to division (B)(6) of this section, through 31352
fiscal year 2005, the board of county commissioners shall provide 31353
office space and utilities for the board of health having 31354
jurisdiction over the county's general health district. 31355
Thereafter, subject to division (B)(6) of this section, the board 31356
of county commissioners shall make payments as provided in 31357
divisions (B)(2) and (3) of this section for the office space and 31358
utilities until fiscal year 2010. Starting in fiscal year 2010, 31359
the board has no duty to provide office space or utilities, or to 31360
make payments for office space or utilities, for the board of 31361
health of the county's general health district. 31362

(2)(a) Not later than the thirtieth day of September 2005, 31363
2006, 2007, and 2008, the board of county commissioners shall make 31364
a written estimate of the total cost for the ensuing fiscal year 31365
to provide office space and utilities to the board of health of 31366
the county's general health district. The estimate of total cost 31367
shall include all of the following: 31368

(i) The total square feet of space to be used by the board of 31369

<u>health;</u>	31370
<u>(ii) The total square feet of any common areas that should be</u>	31371
<u>reasonably allocated to the board of health and the method for</u>	31372
<u>making this allocation;</u>	31373
<u>(iii) The actual cost per square foot for both the space used</u>	31374
<u>by and the common areas allocated to the board of health;</u>	31375
<u>(iv) An explanation of the method used to determine the</u>	31376
<u>actual cost per square foot;</u>	31377
<u>(v) The estimated cost of providing utilities, including an</u>	31378
<u>explanation of how this cost was determined;</u>	31379
<u>(vi) Any other estimated costs the board of county</u>	31380
<u>commissioners anticipates will be incurred to provide office space</u>	31381
<u>and utilities to the board of health, including a detailed</u>	31382
<u>explanation of those costs and the rationale used to determine</u>	31383
<u>them.</u>	31384
<u>(b) The board of county commissioners shall forward a copy of</u>	31385
<u>the estimate of total cost to the director of the board of health</u>	31386
<u>not later than the fifth day of October 2005, 2006, 2007, and</u>	31387
<u>2008. The director shall review the estimate and notify the board</u>	31388
<u>of county commissioners not later than twenty days after its</u>	31389
<u>receipt of either agreement with it or any specific objections to</u>	31390
<u>it and the reasons for the objections. If the director agrees with</u>	31391
<u>the estimate, it shall become the final estimate of total cost.</u>	31392
<u>Failure of the director to make objections to the estimate by the</u>	31393
<u>twentieth day after its receipt shall be deemed to mean that the</u>	31394
<u>director is in agreement with the estimate.</u>	31395
<u>If the director timely provides specific objections to the</u>	31396
<u>board of county commissioners, the board shall review the</u>	31397
<u>objections and may modify the original estimate and send a revised</u>	31398
<u>estimate of total cost to the director within ten days after</u>	31399

receipt of the objections. The director shall respond to a revised estimate within ten days after its receipt. If the director agrees with it, the revised estimate shall become the final estimate of total cost. If the director fails to respond within the ten-day period, the director shall be deemed to have agreed with the revised estimate. If the director disagrees with the revised estimate, the director shall send specific objections to the board of county commissioners within the ten-day period. 31400
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(c) If the director sends specific objections to a revised estimate within the required time, or if there is no revised estimate and the director timely objected to the original estimate, the probate judge of the county shall determine the final estimate of total cost and certify this amount to the director and the board of county commissioners before the first day of January 2006, 2007, 2008, or 2009, as applicable. 31408
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(3)(a) Subject to division (B)(6) of this section, a board of county commissioners shall be responsible for the following percentages of the final estimate of total cost established by division (B)(2) of this section: 31415
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(i) Eighty per cent for fiscal year 2006; 31419

(ii) Sixty per cent for fiscal year 2007; 31420

(iii) Forty per cent for fiscal year 2008; 31421

(iv) Twenty per cent for fiscal year 2009. 31422

(b) In fiscal years 2006, 2007, 2008, and 2009, the board of health of the county's general health district shall be responsible for the payment of the remainder of any costs incurred in excess of the amount payable under division (B)(3)(a)(i), (ii), (iii), or (iv) of this section, as applicable, for the provision of office space and utilities for the board of health, including any unanticipated or unexpected increases in costs beyond the 31423
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final estimate of total cost. 31430

(c) Beginning in fiscal year 2010, the board of county commissioners has no obligation to provide office space or utilities, or to make payments for office space or utilities, for the board of health. 31431
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(4) After fiscal year 2009, the board of county commissioners and the board of health of the county's general health district may enter into a contract for the board of county commissioners to provide office space for the use of the board of health and to provide utilities for that office space. The term of any such contract shall not exceed four years and may be renewed for additional periods not to exceed four years. 31435
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(5) In any fiscal year, notwithstanding any contrary provision of divisions (B)(1) to (4) of this section, the board of county commissioners, in its discretion, may provide office space and utilities for the board of health of the county's general health district free of charge. 31442
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(6) If the board of health of a general health district rents, leases, lease-purchases, or otherwise acquires office space to facilitate the performance of its functions, or constructs, enlarges, renovates, or otherwise modifies buildings or other structures to provide office space to facilitate the performance of its functions, the board of county commissioners of the county served by the general health district has no further obligation under division (B) of this section to provide office space or utilities, or to make payments for office space or utilities, for the board of health, unless the board of county commissioners enters into a contract under division (B)(4) of this section or exercises its option under division (B)(5) of this section. 31447
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Sec. 3712.03. (A) In accordance with Chapter 119. of the 31459

Revised Code, the public health council shall adopt, and may amend 31460
and rescind, rules: 31461

(1) Providing for the licensing of persons or public agencies 31462
providing hospice care programs within this state by the 31463
department of health and for the suspension and revocation of 31464
licenses; 31465

(2) Establishing a license fee and license renewal fee not to 31466
exceed three hundred dollars. The fees shall cover the three-year 31467
period during which an existing license is valid as provided in 31468
division (B) of section 3712.04 of the Revised Code. 31469

(3) Establishing an inspection fee not to exceed one thousand 31470
seven hundred fifty dollars; 31471

(4) Establishing requirements for hospice care program 31472
facilities and services; 31473

~~(4)~~(5) Providing for a waiver of the requirement for the 31474
provision of physical, occupational, or speech or language therapy 31475
contained in division (A)(2) of section 3712.01 of the Revised 31476
Code when the requirement would create a hardship because such 31477
therapy is not readily available in the geographic area served by 31478
the provider of a hospice care program; 31479

~~(5)~~(6) Providing for the granting of licenses to provide 31480
hospice care programs to persons and public agencies that are 31481
accredited or certified to provide such programs by an entity 31482
whose standards for accreditation or certification equal or exceed 31483
those provided for licensure under this chapter and rules adopted 31484
under it; and 31485

~~(6)~~(7) Establishing interpretive guidelines for each rule. 31486

(B) Subject to the approval of the controlling board, the 31487
public health council may establish fees in excess of the amounts 31488
provided by sections 3712.01 and 3712.03 to 3712.06 of the Revised 31489

Code, provided that the fees do not exceed those amounts by
greater than fifty per cent. 31490
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(C) The department of health shall: 31492

(1) Grant, suspend, and revoke licenses for hospice care
programs in accordance with this chapter and rules adopted under
it; 31493
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(2) Make such inspections as are necessary to determine
whether hospice care program facilities and services meet the
requirements of this chapter and rules adopted under it; and 31496
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(3) Implement and enforce this chapter and rules adopted
under it. 31499
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Sec. 3714.07. (A)(1) For the purpose of assisting boards of
health and the environmental protection agency in administering
and enforcing this chapter and rules adopted under it, there is
hereby levied on the disposal of construction and demolition
debris at a construction and demolition debris facility that is
licensed under this chapter or at a solid waste facility that is
licensed under Chapter 3734. of the Revised Code a fee of thirty
cents per cubic yard or sixty cents per ton, as applicable. 31501
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(2) The owner or operator of a construction and demolition
debris facility or a solid waste facility shall determine if cubic
yards or tons will be used as the unit of measurement. In
estimating the fee based on cubic yards, the owner or operator
shall utilize either the maximum cubic yard capacity of the
container, or the hauling volume of the vehicle, that transports
the construction and demolition debris to the facility or the
cubic yards actually logged for disposal by the owner or operator
in accordance with rules adopted under section 3714.02 of the
Revised Code. If basing the fee on tonnage, the owner or operator
shall use certified scales to determine the tonnage of 31509
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construction and demolition debris that is transported to the 31520
facility for disposal. 31521

(3) The owner or operator of a construction and demolition 31522
debris facility or a solid waste facility shall collect the fee 31523
levied under division (A) of this section as a trustee for the 31524
health district having jurisdiction over the facility, if that 31525
district is on the approved list under section 3714.09 of the 31526
Revised Code, or for the state. The owner or operator shall 31527
prepare and file with the appropriate board of health or the 31528
director of environmental protection monthly returns indicating 31529
the total volume or weight, as applicable, of construction and 31530
demolition debris received for disposal at the facility and the 31531
total amount of money required to be collected on the construction 31532
and demolition debris disposed of during that month. Not later 31533
than thirty days after the last day of the month to which the 31534
return applies, the owner or operator shall mail to the board of 31535
health or the director the return for that month together with the 31536
money required to be collected on the construction and demolition 31537
debris disposed of during that month. The owner or operator may 31538
request, in writing, an extension of not more than thirty days 31539
after the last day of the month to which the return applies. A 31540
request for extension may be denied. If the owner or operator 31541
submits the money late, the owner or operator shall pay a penalty 31542
of ten per cent of the amount of the money due for each month that 31543
it is late. 31544

(4) Of the money that is collected from a construction and 31545
demolition debris facility or a solid waste facility on a per 31546
cubic yard or per ton basis under this section, a board of health 31547
shall transmit three cents per cubic yard or six cents per ton, as 31548
applicable, to the director not later than forty-five days after 31549
the receipt of the money. The money retained by a board of health 31550
under this section shall be paid into a special fund, which is 31551

hereby created in each health district, and used solely to 31552
administer and enforce this chapter and rules adopted under it. 31553

The director shall transmit all money received from the 31554
boards of health of health districts under this section and all 31555
money from the disposal fee collected by the director under this 31556
section to the treasurer of state to be credited to the 31557
construction and demolition debris facility oversight fund, which 31558
is hereby created in the state treasury. The fund shall be 31559
administered by the director, and money credited to the fund shall 31560
be used exclusively for the administration and enforcement of this 31561
chapter and rules adopted under it. 31562

(B) The board of health of a health district or the director 31563
may enter into an agreement with the owner or operator of a 31564
construction and demolition debris facility or a solid waste 31565
facility for the quarterly payment of the money collected from the 31566
disposal fee. The board of health shall notify the director of any 31567
such agreement. Not later than forty-five days after receipt of 31568
the quarterly payment, the board of health shall transmit the 31569
amount established in division (A)~~(5)~~(4) of this section to the 31570
director. The money retained by the board of health shall be 31571
deposited in the special fund of the district as required under 31572
that division. Upon receipt of the money from a board of health, 31573
the director shall transmit the money to the treasurer of state to 31574
be credited to the construction and demolition debris facility 31575
oversight fund. 31576

(C) If a construction and demolition debris facility or a 31577
solid waste facility is located within the territorial boundaries 31578
of a municipal corporation or the unincorporated area of a 31579
township, the municipal corporation or township may appropriate up 31580
to four cents per cubic yard or up to eight cents per ton of the 31581
disposal fee required to be paid by the facility under division 31582
(A) of this section for the same purposes that a municipal 31583

corporation or township may levy a fee under division (C) of 31584
section 3734.57 of the Revised Code. 31585

The legislative authority of the municipal corporation or 31586
township may appropriate the money from the fee by enacting an 31587
ordinance or adopting a resolution establishing the amount of the 31588
fee to be appropriated. Upon doing so, the legislative authority 31589
shall mail a certified copy of the ordinance or resolution to the 31590
board of health of the health district in which the construction 31591
and demolition debris facility or the solid waste facility is 31592
located or, if the facility is located in a health district that 31593
is not on the approved list under section 3714.09 of the Revised 31594
Code, to the director. Upon receipt of the copy of the ordinance 31595
or resolution and not later than forty-five days after receipt of 31596
money collected from the fee, the board or the director, as 31597
applicable, shall transmit to the treasurer or other appropriate 31598
officer of the municipal corporation or clerk of the township that 31599
portion of the money collected from the disposal fee by the owner 31600
or operator of the facility that is required by the ordinance or 31601
resolution to be paid to that municipal corporation or township. 31602

Money received by the treasurer or other appropriate officer 31603
of a municipal corporation under this division shall be paid into 31604
the general fund of the municipal corporation. Money received by 31605
the clerk of a township under this division shall be paid into the 31606
general fund of the township. The treasurer or other officer of 31607
the municipal corporation or the clerk of the township, as 31608
appropriate, shall maintain separate records of the money received 31609
under this division. 31610

The legislative authority of a municipal corporation or 31611
township may cease collecting money under this division by 31612
repealing the ordinance or resolution that was enacted or adopted 31613
under this division. 31614

(D) The board of county commissioners of a county in which a construction and demolition debris facility or a solid waste facility is located may appropriate up to three cents per cubic yard or up to six cents per ton of the disposal fee required to be paid by the facility under division (A) of this section for the same purposes that a solid waste management district may levy a fee under division (B) of section 3734.57 of the Revised Code.

The board of county commissioners may appropriate the money from the fee by adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the board of county commissioners shall mail a certified copy of the resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the resolution and not later than forty-five days after receipt of money collected from the fee, the board of health or the director, as applicable, shall transmit to the treasurer of the county that portion of the money collected from the disposal fee by the owner or operator of the facility that is required by the resolution to be paid to that county.

Money received by a county treasurer under this division shall be paid into the general fund of the county. The county treasurer shall maintain separate records of the money received under this division.

A board of county commissioners may cease collecting money under this division by repealing the resolution that was adopted under this division.

(E)(1) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that

is licensed under Chapter 3734. of the Revised Code if there is no
construction and demolition debris facility licensed under this
chapter within ~~forty~~ thirty-five miles of the solid waste facility
as determined by a facility's property boundaries.

(2) This section does not apply to the disposal of
construction and demolition debris at a solid waste facility that
is licensed under Chapter 3734. of the Revised Code if the owner
or operator of the facility chooses to collect fees on the
disposal of the construction and demolition debris that are
identical to the fees that are collected under Chapters 343. and
3734. of the Revised Code on the disposal of solid wastes at that
facility.

Sec. 3714.073. (A) In addition to the fee levied under
division (A)(1) of section 3714.07 of the Revised Code, beginning
July 1, 2005, there is hereby levied on the disposal of
construction and demolition debris at a construction and
demolition debris facility that is licensed under this chapter or
at a solid waste facility that is licensed under Chapter 3734. of
the Revised Code a fee of twelve and one-half cents per cubic yard
or twenty-five cents per ton, as applicable.

(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.

(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 31677
created in section 1515.14 of the Revised Code. 31678

Sec. 3715.04. (A) As used in this section: 31679

(1) "Certificate of health and freesale" means a document 31680
issued by the director of agriculture that certifies to states and 31681
countries receiving products that the products have been produced 31682
and warehoused in this state under sanitary conditions at a food 31683
processing establishment or at a place of business of a 31684
manufacturer of over-the-counter drugs or cosmetics, as 31685
applicable, that has been inspected by the department of 31686
agriculture. Other names of documents that are synonymous with 31687
"certificate of health and freesale" include, but are not limited 31688
to, "sanitary certificate of health and freesale"; "certificate of 31689
origin"; "certificate of freesale"; "certificate of health and 31690
origin"; "certificate of freesale, sanitary and purity"; and 31691
"certificate of freesale, health and origin." 31692

(2) "Food processing establishment" has the same meaning as 31693
in section 3715.021 of the Revised Code. 31694

(B) Upon the request of a food processing establishment, 31695
manufacturer of over-the-counter drugs, or manufacturer of 31696
cosmetics, the director may issue a certificate of health and 31697
freesale after determining that conditions at the establishment or 31698
place of business of the manufacturer, as applicable, have been 31699
found to be sanitary through an inspection conducted pursuant to 31700
this chapter. For each certificate issued, the director shall 31701
charge the establishment or manufacturer a fee in the amount of 31702
twenty dollars. The director shall deposit all fees collected 31703
under this section to the credit of the food safety fund created 31704
in section 915.24 of the Revised Code. 31705

Sec. 3719.47. (A) As used in this section: 31706

(1) "Consumer product," "ephedrine," "ephedrine product," 31707
"phenylpropanolamine," "phenylpropanolamine product," "proof of 31708
age," "pseudoephedrine," "pseudoephedrine product," "retailer," 31709
and "single-ingredient preparation" have the same meanings as in 31710
section 2925.01 of the Revised Code. 31711

(2) "Drug," "licensed health professional authorized to 31712
prescribe drugs," "prescription," and "terminal distributor of 31713
dangerous drugs" have the same meanings as in section 4729.01 of 31714
the Revised Code. 31715

(3) "Pharmacist" means a person licensed under Chapter 4729. 31716
of the Revised Code to engage in the practice of pharmacy. 31717

(B) A retailer or terminal distributor of dangerous drugs 31718
that sells, offers to sell, holds for sale, delivers, or otherwise 31719
provides an ephedrine product, phenylpropanolamine products, and 31720
pseudoephedrine products to the public shall do all of the 31721
following: 31722

(1) Segregate ephedrine products, phenylpropanolamine 31723
products, and pseudoephedrine products from other merchandise so 31724
that no member of the public may procure or purchase such products 31725
without the direct assistance of a pharmacist or other authorized 31726
employee of the retailer or terminal distributor; 31727

(2) With regard to each time an ephedrine product, 31728
phenylpropanolamine product, or pseudoephedrine product is sold or 31729
otherwise provided: 31730

(a) Determine, by examination of a valid proof of age, that 31731
the purchaser or recipient is at least eighteen years of age; 31732

(b) Make a reasonable attempt to ensure that no individual 31733
purchases or receives within any thirty-day period an amount of 31734
ephedrine product, phenylpropanolamine product, or pseudoephedrine 31735
product that exceeds two packages of any one of those products or 31736

of any combination of those products, with neither package so sold 31737
or no combination of packages so sold, whichever is applicable, 31738
containing more than six grams of the product. 31739

(C)(1) Except as provided in division (C)(2) of this section, 31740
no retailer or terminal distributor of dangerous drugs shall 31741
knowingly sell, offer to sell, hold for sale, deliver, or 31742
otherwise provide to any individual within any thirty-day period 31743
an amount of ephedrine product, phenylpropanolamine product, or 31744
pseudoephedrine product that exceeds two packages of any one of 31745
those products or of any combination of those products, with 31746
neither package so sold or no combination of packages so sold, 31747
whichever is applicable, containing more than six grams of the 31748
product. 31749

(2) This division does not apply to any quantity of ephedrine 31750
product, phenylpropanolamine product, or pseudoephedrine product 31751
dispensed by a pharmacist pursuant to a valid prescription issued 31752
by a licensed health professional authorized to prescribe drugs. 31753
31754

(D)(1) Except as provided in division (D)(2) of this section, 31755
no retailer or terminal distributor of dangerous drugs shall sell, 31756
offer to sell, hold for sale, deliver, or otherwise provide any 31757
ephedrine product, phenylpropanolamine product, or pseudoephedrine 31758
product to an individual who is under eighteen years of age. 31759

(2) Division (D)(1) of this section does not apply to any of 31760
the following: 31761

(a) A licensed health professional authorized to prescribe 31762
drugs or a pharmacist who dispenses, sells, or otherwise provides 31763
an ephedrine product, phenylpropanolamine product, or 31764
pseudoephedrine product to an individual under eighteen years of 31765
age; 31766

(b) A parent or guardian of an individual under eighteen 31767

years of age who provides an ephedrine product, 31768
phenylpropanolamine product, or pseudoephedrine product to the 31769
individual; 31770

(c) A person who, as authorized by the individual's parent or 31771
guardian, dispenses, sells, or otherwise provides an ephedrine 31772
product, phenylpropanolamine product, or pseudoephedrine product 31773
to an individual under eighteen years of age. 31774

(E) No employee of a retailer or terminal distributor of 31775
dangerous drugs who is under eighteen years of age shall sell, 31776
offer to sell, hold for sale, deliver, or otherwise provide any 31777
ephedrine product, phenylpropanolamine product, or pseudoephedrine 31778
product to any individual. 31779

(F) Prescriptions, orders, and records maintained pursuant to 31780
this section and stocks of ephedrine products, phenylpropanolamine 31781
products, or pseudoephedrine products shall be open for inspection 31782
to federal, state, county, and municipal officers, and employees 31783
of the state board of pharmacy whose duty it is to enforce the 31784
laws of this state or of the United States relating to controlled 31785
substances. Such prescriptions, orders, records, and stocks shall 31786
be open for inspection by the state medical board and its 31787
employees for purposes of enforcing Chapter 4731. of the Revised 31788
Code. No person having knowledge of any such prescription, order, 31789
or record shall divulge that knowledge, except in connection with 31790
a prosecution or proceeding in court or before a licensing board 31791
or officer, to which prosecution or proceeding the person to whom 31792
the prescriptions, orders, or records relate is a party. 31793

(G) The state board of pharmacy may, by rule adopted in 31794
accordance with Chapter 119. of the Revised Code, exempt from this 31795
section ephedrine products, phenylpropanolamine products, or 31796
pseudoephedrine products that the board finds are not used in the 31797
illegal manufacture of methamphetamine. The board may exempt an 31798

ephedrine product, phenylpropanolamine product, or pseudoephedrine 31799
product from this section if the product is determined by the 31800
board to have been formulated in such a way as to effectively 31801
prevent the conversion of the active ingredient into 31802
methamphetamine. 31803

Sec. 3719.48. (A) As used in this section, "consumer 31804
product," "ephedrine," "ephedrine product," "phenylpropanolamine," 31805
"phenylpropanolamine product," "pseudoephedrine," "pseudoephedrine 31806
product," "retailer," and "single-ingredient preparation" have the 31807
same meanings as in section 2925.01 of the Revised Code. 31808

(B) Each retailer, terminal distributor of dangerous drugs, 31809
pharmacy, prescriber, or wholesaler that sells, offers to sell, 31810
holds for sale, delivers, or otherwise provides any ephedrine 31811
product, phenylpropanolamine product, or pseudoephedrine product 31812
and that discovers the theft or significant loss of more than six 31813
grams of any ephedrine product, phenylpropanolamine product, or 31814
pseudoephedrine product, or combination of those products, 31815
immediately shall notify the state board of pharmacy of the theft 31816
or loss. The retailer, terminal distributor, pharmacy, prescriber, 31817
or wholesaler initially shall make the report by telephone and, 31818
within thirty days after making that report, shall send a written 31819
report to the state board of pharmacy. The report shall identify 31820
the product that was stolen or lost, the amount of the product 31821
stolen or lost, and the date and time of the discovery of the 31822
theft or loss. 31823

(C) Upon receipt of a report under division (B) of this 31824
section made by telephone, the state board of pharmacy immediately 31825
shall notify all of the following of the theft or loss covered by 31826
the report: 31827

(1) The sheriff of the county in which is located the 31828
retailer, terminal distributor, pharmacy, prescriber, or 31829

<u>wholesaler that made the report to the state board;</u>	31830
<u>(2) If the retailer, terminal distributor, pharmacy,</u>	31831
<u>prescriber, or wholesaler that made the report to the state board</u>	31832
<u>is located in a municipal corporation, the police department,</u>	31833
<u>marshal, or other law enforcement agency of that municipal</u>	31834
<u>corporation.</u>	31835
Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and	31836
3721.99 of the Revised Code:	31837
(1)(a) "Home" means an institution, residence, or facility	31838
that provides, for a period of more than twenty-four hours,	31839
whether for a consideration or not, accommodations to three or	31840
more unrelated individuals who are dependent upon the services of	31841
others, including a nursing home, residential care facility, home	31842
for the aging, and a veterans' home operated under Chapter 5907.	31843
of the Revised Code.	31844
(b) "Home" also means both of the following:	31845
(i) Any facility that a person, as defined in section 3702.51	31846
of the Revised Code, proposes for certification as a skilled	31847
nursing facility or nursing facility under Title XVIII or XIX of	31848
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301,	31849
as amended, and for which a certificate of need, other than a	31850
certificate to recategorize hospital beds as described in section	31851
3702.522 of the Revised Code or division (R)(7)(d) of the version	31852
of section 3702.51 of the Revised Code in effect immediately prior	31853
to April 20, 1995, has been granted to the person under sections	31854
3702.51 to 3702.62 of the Revised Code after August 5, 1989;	31855
(ii) A county home or district home that is or has been	31856
licensed as a residential care facility.	31857
(c) "Home" does not mean any of the following:	31858
(i) Except as provided in division (A)(1)(b) of this section,	31859

a public hospital or hospital as defined in section 3701.01 or	31860
5122.01 of the Revised Code;	31861
(ii) A residential facility for mentally ill persons as	31862
defined under section 5119.22 of the Revised Code;	31863
(iii) A residential facility as defined in section 5123.19 of	31864
the Revised Code;	31865
(iv) A habilitation center as defined in section 5123.041 of	31866
the Revised Code;	31867
(v) A community alternative home as defined in section	31868
3724.01 of the Revised Code;	31869
(vi) <u>(v)</u> An adult care facility as defined in section 3722.01	31870
of the Revised Code;	31871
(vii) <u>(vi)</u> An alcohol or drug addiction program as defined in	31872
section 3793.01 of the Revised Code;	31873
(viii) <u>(vii)</u> A facility licensed to provide methadone	31874
treatment under section 3793.11 of the Revised Code;	31875
(ix) <u>(viii)</u> A facility providing services under contract with	31876
the department of mental retardation and developmental	31877
disabilities under section 5123.18 of the Revised Code;	31878
(x) <u>(ix)</u> A facility operated by a hospice care program	31879
licensed under section 3712.04 of the Revised Code that is used	31880
exclusively for care of hospice patients;	31881
(xi) <u>(x)</u> A facility, infirmary, or other entity that is	31882
operated by a religious order, provides care exclusively to	31883
members of religious orders who take vows of celibacy and live by	31884
virtue of their vows within the orders as if related, and does not	31885
participate in the medicare program established under Title XVIII	31886
of the "Social Security Act" or the medical assistance program	31887
established under Chapter 5111. of the Revised Code and Title XIX	31888
of the "Social Security Act," if on January 1, 1994, the facility,	31889

infirmary, or entity was providing care exclusively to members of 31890
the religious order; 31891

~~(xii)~~(xi) A county home or district home that has never been 31892
licensed as a residential care facility. 31893

(2) "Unrelated individual" means one who is not related to 31894
the owner or operator of a home or to the spouse of the owner or 31895
operator as a parent, grandparent, child, grandchild, brother, 31896
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 31897
uncle. 31898

(3) "Mental impairment" does not mean mental illness as 31899
defined in section 5122.01 of the Revised Code or mental 31900
retardation as defined in section 5123.01 of the Revised Code. 31901

(4) "Skilled nursing care" means procedures that require 31902
technical skills and knowledge beyond those the untrained person 31903
possesses and that are commonly employed in providing for the 31904
physical, mental, and emotional needs of the ill or otherwise 31905
incapacitated. "Skilled nursing care" includes, but is not limited 31906
to, the following: 31907

(a) Irrigations, catheterizations, application of dressings, 31908
and supervision of special diets; 31909

(b) Objective observation of changes in the patient's 31910
condition as a means of analyzing and determining the nursing care 31911
required and the need for further medical diagnosis and treatment; 31912

(c) Special procedures contributing to rehabilitation; 31913

(d) Administration of medication by any method ordered by a 31914
physician, such as hypodermically, rectally, or orally, including 31915
observation of the patient after receipt of the medication; 31916

(e) Carrying out other treatments prescribed by the physician 31917
that involve a similar level of complexity and skill in 31918
administration. 31919

(5)(a) "Personal care services" means services including, but not limited to, the following:	31920 31921
(i) Assisting residents with activities of daily living;	31922
(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;	31923 31924 31925
(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.	31926 31927 31928 31929
(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.	31930 31931 31932 31933 31934
(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 skilled nursing care.	31935 31936 31937 31938 31939 31940
(7) "Residential care facility" means a home that provides either of the following:	31941 31942
(a) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;	31943 31944 31945 31946
(b) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason	31947 31948 31949

of age or physical or mental impairment, and, to at least one of 31950
those individuals, any of the skilled nursing care authorized by 31951
section 3721.011 of the Revised Code. 31952

(8) "Home for the aging" means a home that provides services 31953
as a residential care facility and a nursing home, except that the 31954
home provides its services only to individuals who are dependent 31955
on the services of others by reason of both age and physical or 31956
mental impairment. 31957

The part or unit of a home for the aging that provides 31958
services only as a residential care facility is licensed as a 31959
residential care facility. The part or unit that may provide 31960
skilled nursing care beyond the extent authorized by section 31961
3721.011 of the Revised Code is licensed as a nursing home. 31962

(9) "County home" and "district home" mean a county home or 31963
district home operated under Chapter 5155. of the Revised Code. 31964

(B) The public health council may further classify homes. For 31965
the purposes of this chapter, any residence, institution, hotel, 31966
congregate housing project, or similar facility that meets the 31967
definition of a home under this section is such a home regardless 31968
of how the facility holds itself out to the public. 31969

(C) For purposes of this chapter, personal care services or 31970
skilled nursing care shall be considered to be provided by a 31971
facility if they are provided by a person employed by or 31972
associated with the facility or by another person pursuant to an 31973
agreement to which neither the resident who receives the services 31974
nor the resident's sponsor is a party. 31975

(D) Nothing in division (A)(4) of this section shall be 31976
construed to permit skilled nursing care to be imposed on an 31977
individual who does not require skilled nursing care. 31978

Nothing in division (A)(5) of this section shall be construed 31979

to permit personal care services to be imposed on an individual 31980
who is capable of performing the activity in question without 31981
assistance. 31982

(E) Division (A)(1)(c)~~(xi)~~(x) of this section does not 31983
prohibit a facility, infirmary, or other entity described in that 31984
division from seeking licensure under sections 3721.01 to 3721.09 31985
of the Revised Code or certification under Title XVIII or XIX of 31986
the "Social Security Act." However, such a facility, infirmary, or 31987
entity that applies for licensure or certification must meet the 31988
requirements of those sections or titles and the rules adopted 31989
under them and obtain a certificate of need from the director of 31990
health under section 3702.52 of the Revised Code. 31991

(F) Nothing in this chapter, or rules adopted pursuant to it, 31992
shall be construed as authorizing the supervision, regulation, or 31993
control of the spiritual care or treatment of residents or 31994
patients in any home who rely upon treatment by prayer or 31995
spiritual means in accordance with the creed or tenets of any 31996
recognized church or religious denomination. 31997

Sec. 3721.03. The (A) As used in this section, "person" has 31998
the same meaning as in section 1.59 of the Revised Code. 31999

(B) The director of health shall enforce the provisions of 32000
sections 3721.01 to ~~3721.09~~ 3721.13 and 3721.99 of the Revised 32001
Code and may issue orders to secure compliance with the provisions 32002
of these sections and the rules adopted under them. The director 32003
may hold hearings, issue subpoenas, compel testimony, and make 32004
adjudications. ~~In~~ 32005

The director may issue an order revoking a license in the 32006
event the director finds, upon hearing or opportunity afforded 32007
~~therefor~~ pursuant to Chapter 119. of the Revised Code, that any of 32008
the following apply to a person, firm, partnership, association, 32009

corporation, county home, or district home licensed under section 32010
3721.07 of the Revised Code ~~is in violation of:~~ 32011

(1) Has violated any of the provisions of Chapter 3721. of 32012
the Revised Code or rules adopted by the public health council 32013
under it; ~~is in violation of~~ 32014

(2) Has violated any order issued by the director; ~~is~~ 32015

(3) Is not, or any of its principals are not suitable, 32016
morally or financially to operate such an institution; ~~or is~~ 32017

(4) Is not furnishing humane, kind, and adequate treatment 32018
and care, ~~the director may issue an order revoking the license~~ 32019
~~previously issued by the director;~~ 32020

(5) Has had a long-standing pattern of violations of this 32021
chapter or the rules adopted under it that has caused physical, 32022
emotional, mental, or psychosocial harm to one or more residents. 32023

~~Upon~~ 32024

Upon the issuance of any order of revocation, the person 32025
whose license is revoked, or the county home or district home that 32026
has its license revoked, may appeal in accordance with Chapter 32027
119. of the Revised Code. 32028

~~The state fire marshal shall enforce all statutes and rules~~ 32029
~~pertaining to fire safety in homes and shall adopt rules~~ 32030
~~pertaining to fire safety in homes as the marshal determines~~ 32031
~~necessary. The rules adopted by the marshal shall be in addition~~ 32032
~~to those fire safety rules that the board of building standards~~ 32033
~~and the public health council are empowered to adopt and shall be~~ 32034
~~adopted prior to December 31, 1972. In the event of a dispute~~ 32035
~~between the marshal and another officer having responsibilities~~ 32036
~~under sections 3721.01 to 3721.09 of the Revised Code with respect~~ 32037
~~to the interpretation or application of a specific fire safety~~ 32038
~~statute or rule, the interpretation of the marshal shall prevail.~~ 32039

~~If the ownership of a home is assigned or transferred to a different person, the new owner is responsible and liable for compliance with any notice of proposed action or order issued under this section in accordance with Chapter 119. of the Revised Code prior to the effective date of the assignment or transfer (C) Once the director notifies a person, county home, or district home licensed to operate a home that the license may be revoked or issues any order under this section, the person, county home, or district home shall not assign or transfer to another person or entity the right to operate the home. This prohibition shall remain in effect until proceedings under Chapter 119. of the Revised Code concerning the order or license revocation have been concluded or the director notifies the person, county home, or district home that the prohibition has been lifted.~~

If a license is revoked under this section, the former license holder shall not assign or transfer or consent to assignment or transfer of the right to operate the home. Any attempted assignment or transfer to another person or entity is void.

On revocation of a license, the former licensee shall take all necessary steps to cease operation of the home.

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.

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 32071
having responsibilities under sections 3721.01 to 3721.09 of the 32072
Revised Code with respect to the interpretation or application of 32073
a specific fire safety statute or rule, the interpretation of the 32074
marshal shall prevail. 32075

Sec. 3721.07. Every person desiring to operate a home and the 32076
superintendent or administrator of each county home or district 32077
home for which a license as a residential care facility is sought 32078
shall apply for a license to the director of health. The director 32079
shall issue a license for the home, if after investigation of the 32080
applicant and, if required by section 3721.02 of the Revised Code, 32081
inspection of the home, the following requirements or conditions 32082
are satisfied or complied with: 32083

(A) The applicant has not been convicted of a felony or a 32084
crime involving moral turpitude; 32085

(B) The applicant is not violating any of the rules made by 32086
the public health council or any order issued by the director of 32087
health; 32088

(C) The applicant has not had a license to operate the home 32089
revoked pursuant to section 3721.03 of the Revised Code because of 32090
any act or omission that jeopardized a resident's health, welfare, 32091
or safety nor has the applicant had a long-standing pattern of 32092
violations of this chapter or rules adopted under it that caused 32093
physical, emotional, mental, or psychosocial harm to one or more 32094
residents. 32095

(D) The buildings in which the home is housed have been 32096
approved by the state fire marshal or a township, municipal, or 32097
other legally constituted fire department approved by the marshal. 32098
In the approval of a home such agencies shall apply standards 32099
prescribed by the board of building standards, and by the state 32100

fire marshal, and by section 3721.071 of the Revised Code. 32101

~~(D)~~(E) The applicant, if it is an individual, or the 32102
principal participants, if it is an association or a corporation, 32103
is or are suitable financially and morally to operate a home; 32104

~~(E)~~(F) The applicant is equipped to furnish humane, kind, and 32105
adequate treatment and care; 32106

~~(F)~~(G) The home does not maintain or contain: 32107

(1) Facilities for the performance of major surgical 32108
procedures; 32109

(2) Facilities for providing therapeutic radiation; 32110

(3) An emergency ward; 32111

(4) A clinical laboratory unless it is under the supervision 32112
of a clinical pathologist who is a licensed physician in this 32113
state; 32114

(5) Facilities for radiological examinations unless such 32115
examinations are performed only by a person licensed to practice 32116
medicine, surgery, or dentistry in this state. 32117

~~(G)~~(H) The home does not accept or treat outpatients, except 32118
upon the written orders of a physician licensed in this state, 32119
maternity cases, boarding children, and does not house transient 32120
guests, other than participants in an adult day-care program, for 32121
twenty-four hours or less; 32122

~~(H)~~(I) The home is in compliance with sections 3721.28 and 32123
3721.29 of the Revised Code. 32124

When the director issues a license, the license shall remain 32125
in effect until revoked by the director or voided at the request 32126
of the applicant; provided, there shall be an annual renewal fee 32127
payable during the month of January of each calendar year. Any 32128
licensed home that does not pay its renewal fee in January shall 32129
pay, beginning the first day of February, a late fee of one 32130

hundred dollars for each week or part thereof that the renewal fee
is not paid. If either the renewal fee or the late fee is not paid
by the fifteenth day of February, the director may, in accordance
with Chapter 119. of the Revised Code, revoke the home's license.

If, under division (B)(5) of section 3721.03 of the Revised
Code, the license of a person has been revoked or the license of a
county home or district home to operate as a residential care
facility has been revoked, the director of health shall not issue
a license to the person or home at any time. A person whose
license is revoked, and a county home or district home that has
its license as a residential care facility revoked other than
under division (B)(5) of section 3721.03 of the Revised Code, for
any reason other than nonpayment of the license renewal fee or
late fees ~~may shall~~ not apply for be issued a new license under
this chapter until a period of one year following the date of
revocation has elapsed.

Any applicant who is denied a license may appeal in
accordance with Chapter 119. of the Revised Code.

Sec. 3721.15. (A) Authorization from a resident or a sponsor
with a power of attorney for a home to manage the resident's
financial affairs shall be in writing and shall be attested to by
a witness who is not connected in any manner whatsoever with the
home or its administrator. The home shall maintain accounts
pursuant to division (A)(27) of section 3721.13 of the Revised
Code. Upon the resident's transfer, discharge, or death, the
account shall be closed and a final accounting made. All remaining
funds shall be returned to the resident or resident's sponsor,
except in the case of death, when all remaining funds shall be
transferred or used in accordance with section ~~5111.112~~ 5111.113
of the Revised Code.

(B) A home that manages a resident's financial affairs shall

deposit the resident's funds in excess of one hundred dollars, and 32162
may deposit the resident's funds that are one hundred dollars or 32163
less, in an interest-bearing account separate from any of the 32164
home's operating accounts. Interest earned on the resident's funds 32165
shall be credited to the resident's account. A resident's funds 32166
that are one hundred dollars or less and have not been deposited 32167
in an interest-bearing account may be deposited in a 32168
noninterest-bearing account or petty cash fund. 32169

(C) Each resident whose financial affairs are managed by a 32170
home shall be promptly notified by the home when the total of the 32171
amount of funds in the resident's accounts and the petty cash fund 32172
plus other nonexempt resources reaches two hundred dollars less 32173
than the maximum amount permitted a recipient of medicaid. The 32174
notice shall include an explanation of the potential effect on the 32175
resident's eligibility for medicaid if the amount in the 32176
resident's accounts and the petty cash fund, plus the value of 32177
other nonexempt resources, exceeds the maximum assets a medicaid 32178
recipient may retain. 32179

(D) Each home that manages the financial affairs of residents 32180
shall purchase a surety bond or otherwise provide assurance 32181
satisfactory to the director of health, or, in the case of a home 32182
that participates in the medicaid program, to the director of job 32183
and family services, to assure the security of all residents' 32184
funds managed by the home. 32185

Sec. 3721.19. (A) As used in this section: 32186

(1) "Home" and "residential care facility" have the same 32187
meanings as in section 3721.01 of the Revised Code; 32188

(2) "Sponsor" and "residents' rights advocate" have the same 32189
meanings as in section 3721.10 of the Revised Code. 32190

A home licensed under this chapter that is not a party to a 32191

provider agreement, as defined in section 5111.20 of the Revised Code, shall provide each prospective resident, before admission, with the following information, orally and in a separate written notice on which is printed in a conspicuous manner: "This home is not a participant in the medical assistance program administered by the Ohio department of job and family services. Consequently, you may be discharged from this home if you are unable to pay for the services provided by this home."

If the prospective resident has a sponsor whose identity is made known to the home, the home shall also inform the sponsor, before admission of the resident, of the home's status relative to the medical assistance program. Written acknowledgement of the receipt of the information shall be provided by the resident and, if the prospective resident has a sponsor who has been identified to the home, by the sponsor. The written acknowledgement shall be made part of the resident's record by the home.

No home shall terminate its status as a provider under the ~~medical assistance~~ medicaid program unless it has complied with section 5111.66 of the Revised Code and, at least ninety days prior to such termination, provided written notice to the ~~department of job and family services and~~ residents of the home and their sponsors of such action. This requirement shall not apply in cases where the department of job and family services terminates a home's provider agreement or provider status.

(B) A home licensed under this chapter as a residential care facility shall provide notice to each prospective resident or the individual's sponsor of the services offered by the facility and the types of skilled nursing care that the facility may provide. A residential care facility that, pursuant to section 3721.012 of the Revised Code, has a policy of entering into risk agreements with residents or their sponsors shall provide each prospective resident or the individual's sponsor a written explanation of the

policy and the provisions that may be contained in a risk 32224
agreement. At the time the information is provided, the facility 32225
shall obtain a statement signed by the individual receiving the 32226
information acknowledging that the individual received the 32227
information. The facility shall maintain on file the individual's 32228
signed statement. 32229

(C) A resident has a cause of action against a home for 32230
breach of any duty imposed by this section. The action may be 32231
commenced by the resident, or on the resident's behalf by the 32232
resident's sponsor or a residents' rights advocate, by the filing 32233
of a civil action in the court of common pleas of the county in 32234
which the home is located, or in the court of common pleas of 32235
Franklin county. 32236

If the court finds that a breach of any duty imposed by this 32237
section has occurred, the court shall enjoin the home from 32238
discharging the resident from the home until arrangements 32239
satisfactory to the court are made for the orderly transfer of the 32240
resident to another mode of health care including, but not limited 32241
to, another home, and may award the resident and a person or 32242
public agency that brings an action on behalf of a resident 32243
reasonable attorney's fees. If a home discharges a resident to 32244
whom or to whose sponsor information concerning its status 32245
relative to the medical assistance program was not provided as 32246
required under this section, the court shall grant any appropriate 32247
relief including, but not limited to, actual damages, reasonable 32248
attorney's fees, and costs. 32249

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of the 32250
Revised Code: 32251

(A) "Long-term care facility" means either of the following: 32252

(1) A nursing home as defined in section 3721.01 of the 32253

Revised Code, other than a nursing home or part of a nursing home 32254
certified as an intermediate care facility for the mentally 32255
retarded under Title XIX of the "Social Security Act," 49 Stat. 32256
620 (1935), 42 U.S.C.A. 301, as amended; 32257

(2) A facility or part of a facility that is certified as a 32258
skilled nursing facility or a nursing facility under Title XVIII 32259
or XIX of the "Social Security Act." 32260

(B) "Residential care facility" has the same meaning as in 32261
section 3721.01 of the Revised Code. 32262

(C) "Abuse" means knowingly causing physical harm or 32263
recklessly causing serious physical harm to a resident by physical 32264
contact with the resident or by use of physical or chemical 32265
restraint, medication, or isolation as punishment, for staff 32266
convenience, excessively, as a substitute for treatment, or in 32267
amounts that preclude habilitation and treatment. 32268

(D) "Neglect" means recklessly failing to provide a resident 32269
with any treatment, care, goods, or service necessary to maintain 32270
the health or safety of the resident when the failure results in 32271
serious physical harm to the resident. "Neglect" does not include 32272
allowing a resident, at the resident's option, to receive only 32273
treatment by spiritual means through prayer in accordance with the 32274
tenets of a recognized religious denomination. 32275

(E) "Misappropriation" means depriving, defrauding, or 32276
otherwise obtaining the real or personal property of a resident by 32277
any means prohibited by the Revised Code, including violations of 32278
Chapter 2911. or 2913. of the Revised Code. 32279

(F) "Resident" includes a resident, patient, former resident 32280
or patient, or deceased resident or patient of a long-term care 32281
facility or a residential care facility. 32282

(G) "Physical restraint" has the same meaning as in section 32283

3721.10 of the Revised Code.	32284
(H) "Chemical restraint" has the same meaning as in section 3721.10 of the Revised Code.	32285 32286
(I) "Nursing and nursing-related services" means the personal care services and other services not constituting skilled nursing care that are specified in rules the public health council shall adopt in accordance with Chapter 119. of the Revised Code.	32287 32288 32289 32290
(J) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.	32291 32292
(K)(1) <u>Except as provided in division (K)(2) of this section,</u> "Nurse <u>nurse</u> aide" means an individual, other than a licensed health professional practicing within the scope of the professional's license, who provides nursing and nursing-related services to residents in a long-term care facility, either as a member of the staff of the facility for monetary compensation or as a volunteer without monetary compensation.	32293 32294 32295 32296 32297 32298 32299
(2) <u>"Nurse aide" does not include either of the following:</u>	32300
(a) <u>A licensed health professional practicing within the scope of the professional's license;</u>	32301 32302
(b) <u>An individual providing nursing and nursing-related services in a religious nonmedical health care institution, if the individual has been trained in the principles of nonmedical care and is recognized by the institution as being competent in the administration of care within the religious tenets practiced by the residents of the institution.</u>	32303 32304 32305 32306 32307 32308
(L) "Licensed health professional" means all of the following:	32309 32310
(1) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	32311 32312
(2) A physical therapist or physical therapy assistant	32313

licensed under Chapter 4755. of the Revised Code;	32314
(3) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;	32315 32316 32317
(4) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;	32318 32319
(5) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;	32320 32321
(6) A social worker or independent social worker licensed under Chapter 4757. of the Revised Code or a social work assistant registered under that chapter;	32322 32323 32324
(7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	32325 32326
(8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	32327 32328
(9) An optometrist licensed under Chapter 4725. of the Revised Code;	32329 32330
(10) A pharmacist licensed under Chapter 4729. of the Revised Code;	32331 32332
(11) A psychologist licensed under Chapter 4732. of the Revised Code;	32333 32334
(12) A chiropractor licensed under Chapter 4734. of the Revised Code;	32335 32336
(13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;	32337 32338
(14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code.	32339 32340
(M) <u>"Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive</u>	32341 32342

payment under the medicare program established under Title XVIII 32343
of the "Social Security Act" for inpatient hospital services or 32344
post-hospital extended care services furnished to an individual in 32345
a religious nonmedical health care institution, as defined in 32346
section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 32347
(1965), 42 U.S.C. 1395x(ss)(1), as amended. 32348

(N) "Competency evaluation program" means a program through 32349
which the competency of a nurse aide to provide nursing and 32350
nursing-related services is evaluated. 32351

~~(N)~~(O) "Training and competency evaluation program" means a 32352
program of nurse aide training and evaluation of competency to 32353
provide nursing and nursing-related services. 32354

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the 32355
Revised Code: 32356

(A) "Hospital" has the same meaning as in section 3727.01 of 32357
the Revised Code. 32358

(B) "Inpatient days" means all days during which a resident 32359
of a nursing facility, regardless of payment source, occupies a 32360
bed in the nursing facility that is included in the facility's 32361
certified capacity under Title XIX. Therapeutic or hospital leave 32362
days for which payment is made under section 5111.26 of the 32363
Revised Code are considered inpatient days proportionate to the 32364
percentage of the facility's per resident per day rate paid for 32365
those days. 32366

(C) "Medicaid" has the same meaning as in section 5111.01 of 32367
the Revised Code. 32368

(D) "Medicaid day" means all days during which a resident who 32369
is a medicaid recipient occupies a bed in a nursing facility that 32370
is included in the facility's certified capacity under Title XIX. 32371
Therapeutic or hospital leave days for which payment is made under 32372

<u>section 5111.26 of the Revised Code are considered medicaid days</u>	32373
<u>proportionate to the percentage of the nursing facility's per</u>	32374
<u>resident per day rate for those days.</u>	32375
<u>(E) "Nursing facility" has the same meaning as in section</u>	32376
<u>5111.20 of the Revised Code.</u>	32377
<u>(F)(1) "Nursing home" means all of the following:</u>	32378
(a) A nursing home licensed under section 3721.02 or 3721.09	32379
of the Revised Code, including any part of a home for the aging	32380
licensed as a nursing home;	32381
(b) A facility or part of a facility, other than a hospital,	32382
that is certified as a skilled nursing facility under Title XVIII	32383
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A.	32384
301, as amended;	32385
(c) A nursing facility as defined in section 5111.20 of the	32386
Revised Code , other than a portion of a hospital certified as a	32387
nursing facility.	32388
(2) "Nursing home" does not include <u>a any of the following:</u>	32389
<u>(a) A county home, county nursing home, or district home</u>	32390
operated pursuant to Chapter 5155. of the Revised Code or a;	32391
<u>(b) A nursing home maintained and operated by the Ohio</u>	32392
<u>veterans' home agency under section 5907.01 of the Revised Code;</u>	32393
<u>(c) A nursing home or part of a nursing home licensed under</u>	32394
section 3721.02 or 3721.09 of the Revised Code that is certified	32395
as an intermediate care facility for the mentally retarded under	32396
Title XIX of the "Social Security Act."	32397
(B) "Hospital" has the same meaning as in section 3727.01 of	32398
the Revised Code.	32399
<u>(G) "Title XIX" means Title XIX of the "Social Security Act,"</u>	32400
<u>79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.</u>	32401

(H) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 32402
32403

Sec. 3721.51. The department of job and family services shall 32404
do all of the following: 32405

(A) ~~For~~ Subject to division (C) of this section and for the 32406
purposes specified in ~~section~~ sections 3721.56 and 3721.561 of the 32407
Revised Code, determine an annual franchise permit fee on each 32408
nursing home in an amount equal to ~~three dollars and thirty cents~~ 32409
~~for fiscal year 2002, four~~ six dollars and ~~thirty~~ twenty-five 32410
cents for fiscal years ~~2003 through 2005, 2006 and 2007~~ and one 32411
dollar for each fiscal year thereafter, multiplied by the product 32412
of the following: 32413

(1) The number of beds licensed as nursing home beds, plus 32414
any other beds certified as skilled nursing facility beds under 32415
Title XVIII or nursing facility beds under Title XIX ~~of the~~ 32416
~~"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as~~ 32417
~~amended, on July 1, 1993, and, for each subsequent year, the first~~ 32418
day of May of the calendar year in which the fee is determined 32419
pursuant to division (A) of section 3721.53 of the Revised Code; 32420

(2) The ~~number of days in fiscal year 1994 and, for each~~ 32421
~~subsequent year, the~~ number of days in the fiscal year beginning 32422
on the first day of July of the calendar year in which the fee is 32423
determined pursuant to division (A) of section 3721.53 of the 32424
Revised Code. 32425

(B) ~~For~~ Subject to division (C) of this section and for the 32426
purposes specified in ~~section~~ sections 3721.56 and 3721.561 of the 32427
Revised Code, determine an annual franchise permit fee on each 32428
hospital in an amount equal to ~~three dollars and thirty cents for~~ 32429
~~fiscal year 2002, four~~ six dollars and ~~thirty~~ twenty-five cents 32430
for fiscal years ~~2003 through 2005, 2006 and 2007~~ and one dollar 32431

for each fiscal year thereafter, multiplied by the product of the 32432
following: 32433

(1) The number of beds registered pursuant to section 3701.07 32434
of the Revised Code as skilled nursing facility beds or long-term 32435
care beds, plus any other beds licensed as nursing home beds under 32436
section 3721.02 or 3721.09 of the Revised Code, on ~~July 1, 1993,~~ 32437
~~and, for each subsequent year,~~ the first day of May of the 32438
calendar year in which the fee is determined pursuant to division 32439
(A) of section 3721.53 of the Revised Code; 32440

(2) The ~~number of days in fiscal year 1994 and, for each~~ 32441
~~subsequent year,~~ the number of days in the fiscal year beginning 32442
on the first day of July of the calendar year in which the fee is 32443
determined pursuant to division (A) of section 3721.53 of the 32444
Revised Code. 32445

(C) If the United States centers for medicare and medicaid 32446
services determines that the franchise permit fee established by 32447
sections 3721.50 to 3721.58 of the Revised Code ~~would be~~ is an 32448
impermissible health care related tax under section 1903(w) of the 32449
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 32450
amended, ~~the department of job and family services shall~~ take all 32451
necessary actions to cease implementation of ~~these~~ sections 32452
3721.50 to 3721.58 of the Revised Code in accordance with rules 32453
adopted under section 3721.58 of the Revised Code. 32454

Sec. 3721.52. (A) For the purpose of the fee under division 32455
(A) of section 3721.51 of the Revised Code, the department of 32456
health shall, ~~not later than August 1, 1993, and, for each~~ 32457
~~subsequent year,~~ not later than the first day of each June, report 32458
to the department of job and family services the number of beds in 32459
each nursing home licensed on ~~July 1, 1993, and, for each~~ 32460
~~subsequent year,~~ the preceding first day of May under section 32461
3721.02 or 3721.09 of the Revised Code or certified on that date 32462

under Title XVIII or XIX of the "~~Social Security Act,~~" 49 Stat. 32463
620 (1935), 42 U.S.C.A. 301, as amended. 32464

(B) For the purpose of the fee under division (B) of section 32465
3721.51 of the Revised Code, the department of health shall, ~~not~~ 32466
~~later than August 1, 1993, and, for each subsequent year,~~ not 32467
later than the first day of each June, report to the department of 32468
job and family services the number of beds in each hospital 32469
registered on ~~July 1, 1993, and, for each subsequent year,~~ the 32470
preceding first day of May pursuant to section 3701.07 of the 32471
Revised Code as skilled nursing facility or long-term care beds or 32472
licensed on that date under section 3721.02 or 3721.09 of the 32473
Revised Code as nursing home beds. 32474

Sec. 3721.541. (A) In addition to assessing a penalty 32475
pursuant to section 3721.54 of the Revised Code, the department of 32476
job and family services may do either of the following if a 32477
nursing facility or hospital fails to pay the full amount of a 32478
franchise permit fee installment when due: 32479

(1) Withhold an amount equal to the installment and penalty 32480
assessed under section 3721.54 of the Revised Code from a medicaid 32481
payment due the nursing facility or hospital until the nursing 32482
facility or hospital pays the installment and penalty; 32483

(2) Terminate the nursing facility or hospital's medicaid 32484
provider agreement. 32485

(B) The department may withhold a medicaid payment under 32486
division (A)(1) of this section without providing notice to the 32487
nursing facility or hospital and without conducting an 32488
adjudication under Chapter 119. of the Revised Code. 32489

Sec. 3721.56. ~~(A) Thirty and three tenths~~ There is hereby 32490
created in the state treasury the home- and community-based 32491
services for the aged fund. Sixteen per cent of all payments and 32492

penalties paid by nursing homes and hospitals under sections 32493
3721.53 and 3721.54 of the Revised Code for fiscal year ~~2002,~~ 32494
~~twenty three and twenty six hundredths per cent of such payments~~ 32495
~~and penalties paid for fiscal years 2003 through 2005~~ 2006 and 32496
2007, and all such payments and penalties paid for subsequent 32497
fiscal years, shall be deposited into the "~~home and~~ 32498
~~community based services for the aged fund,~~" which is hereby 32499
created in the state treasury. The departments of job and family 32500
services and aging shall use the moneys in the fund to fund the 32501
following in accordance with rules adopted under section 3721.58 32502
of the Revised Code: 32503

~~(1)(A)~~ The medical assistance medicaid program established 32504
under Chapter 5111. of the Revised Code; 32505

~~(2)~~ The, including the PASSPORT program established under 32506
section 173.40 of the Revised Code; 32507

~~(3)(B)~~ The residential state supplement program established 32508
under section 173.35 of the Revised Code. 32509

~~(B)~~ Sixty nine and seven tenths per cent of all payments and 32510
penalties paid by nursing homes and hospitals under sections 32511
3721.53 and 3721.54 of the Revised Code for fiscal year 2002, and 32512
seventy six and seventy four hundredths per cent of such payments 32513
and penalties paid for fiscal years 2003 through 2005, shall be 32514
deposited into the nursing facility stabilization fund, which is 32515
hereby created in the state treasury. The department of job and 32516
family services shall use the money in the fund in the manner 32517
provided by Am. Sub. H.B. 94 and Am. Sub. S.B. 261 of the 124th 32518
general assembly. 32519

Sec. 3721.561. (A) There is hereby created in the state 32520
treasury the nursing facility stabilization fund. All payments and 32521
penalties paid by nursing homes and hospitals under sections 32522
3721.53 and 3721.54 of the Revised Code that are not deposited 32523

into the home and community-based services for the aged fund shall 32524
be deposited into the fund. The department of job and family 32525
services shall use the money in the fund to do all of the 32526
following: 32527

(1) Make medicaid payments to nursing facilities; 32528

(2) Beginning with the third quarter of calendar year 2005 32529
and each quarter thereafter, pay each nursing facility an amount 32530
determined as follows: 32531

(a) Divide the amount of the franchise permit fee that the 32532
nursing facility pays under section 3721.53 of the Revised Code 32533
for the fiscal year in which the payment is made by the nursing 32534
facility's inpatient days for the calendar year preceding that 32535
fiscal year; 32536

(b) Multiply the amount determined under division (A)(2)(a) 32537
of this section by the nursing facility's medicaid days for the 32538
calendar year preceding the fiscal year in which the payment is 32539
made; 32540

(c) Divide the amount determined under division (A)(2)(b) of 32541
this section for the nursing facility by four. 32542

(B) Any money remaining in the nursing facility stabilization 32543
fund after payments specified in division (A) of this section are 32544
made shall be retained in the fund. Any interest or other 32545
investment proceeds earned on money in the fund shall be credited 32546
to the fund and used to make medicaid payments in accordance with 32547
division (A)(1) of this section. 32548

Sec. 3721.58. The director of job and family services shall 32549
adopt rules in accordance with Chapter 119. of the Revised Code to 32550
do ~~both~~ all of the following: 32551

(A) Prescribe the actions the department of job and family 32552

services will take to cease implementation of sections 3721.50 32553
through 3721.57 of the Revised Code if the United States ~~health~~ 32554
~~care financing administration~~ centers for medicare and medicaid
services determines that the franchise permit fee established by 32555
those sections is an impermissible health-care related tax under 32556
section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 32557
42 U.S.C. ~~1396(b)(w)~~ 1396b(w), as amended; 32558
32559

(B) Establish the method of distributing moneys in the home 32560
and community-based services for the aged fund created under 32561
section 3721.56 of the Revised Code; 32562

(C) Establish any requirements or procedures the director 32563
considers necessary to implement sections 3721.50 to 3721.58 of 32564
the Revised Code. 32565

Sec. 3722.01. (A) As used in this chapter: 32566

(1) "Owner" means the person who owns the business of and who 32567
ultimately controls the operation of an adult care facility and to 32568
whom the manager, if different from the owner, is responsible. 32569

(2) "Manager" means the person responsible for the daily 32570
operation of an adult care facility. The manager and the owner of 32571
a facility may be the same person. 32572

(3) "Adult" means an individual eighteen years of age or 32573
older. 32574

(4) "Unrelated" means that an adult resident is not related 32575
to the owner or manager of an adult care facility or to the 32576
owner's or manager's spouse as a parent, grandparent, child, 32577
stepchild, grandchild, brother, sister, niece, nephew, aunt, or 32578
uncle, or as the child of an aunt or uncle. 32579

(5) "Skilled nursing care" means skilled nursing care as 32580
defined in section 3721.01 of the Revised Code. 32581

(6)(a) "Personal care services" means services including, but not limited to, the following: 32582
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(i) Assisting residents with activities of daily living; 32584

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted by the public health council pursuant to this chapter; 32585
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(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 by the public health council pursuant to this chapter. 32588
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(b) "Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(6)(a) of this section to be considered to be providing personal care services. 32592
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(7) "Adult family home" means a residence or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three of those adults. 32597
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(8) "Adult group home" means a residence or facility that provides accommodations to six to sixteen unrelated adults and provides supervision and personal care services to at least three of the unrelated adults. 32601
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(9) "Adult care facility" means an adult family home or an adult group home. For the purposes of this chapter, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom are provided personal care services, is an adult care facility regardless of how the facility holds itself out to the public. 32605
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"Adult care facility" does not include:	32612
(a) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;	32613 32614 32615
(b) A nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code;	32616 32617
(c) A community alternative home as defined in section 3724.01 of the Revised Code;	32618 32619
(d) An alcohol and drug addiction program as defined in section 3793.01 of the Revised Code;	32620 32621
(e) A habilitation center as defined in section 5123.041 of the Revised Code;	32622 32623
(f) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;	32624 32625 32626
(g) <u>(f)</u> A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;	32627 32628
(h) <u>(g)</u> A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of mental retardation and developmental disabilities;	32629 32630 32631
(i) <u>(h)</u> Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care;	32632 32633 32634 32635 32636 32637 32638
(j) <u>(i)</u> Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for	32639 32640 32641

the homeless; 32642

~~(k)~~(j) A terminal care facility for the homeless that has 32643
entered into an agreement with a hospice care program under 32644
section 3712.07 of the Revised Code; 32645

~~(l)~~(k) A facility approved by the veterans administration 32646
under section 104(a) of the "Veterans Health Care Amendments of 32647
1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used 32648
exclusively for the placement and care of veterans; 32649

~~(m)~~(l) Until January 1, 1994, the portion of a facility in 32650
which care is provided exclusively to members of a religious order 32651
if the facility is owned by or part of a nonprofit institution of 32652
higher education authorized to award degrees by the Ohio board of 32653
regents under Chapter 1713. of the Revised Code. 32654

(10) "Residents' rights advocate" means: 32655

(a) An employee or representative of any state or local 32656
government entity that has a responsibility for residents of adult 32657
care facilities and has registered with the department of health 32658
under section 3701.07 of the Revised Code; 32659

(b) An employee or representative, other than a manager or 32660
employee of an adult care facility or nursing home, of any private 32661
nonprofit corporation or association that qualifies for tax-exempt 32662
status under section 501(a) of the "Internal Revenue Code of 32663
1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has 32664
registered with the department of health under section 3701.07 of 32665
the Revised Code, and whose purposes include educating and 32666
counseling residents, assisting residents in resolving problems 32667
and complaints concerning their care and treatment, and assisting 32668
them in securing adequate services. 32669

(11) "Sponsor" means an adult relative, friend, or guardian 32670
of a resident of an adult care facility who has an interest in or 32671
responsibility for the resident's welfare. 32672

(12) "Ombudsperson" means a "representative of the office of the state long-term care ombudsperson program" as defined in section 173.14 of the Revised Code.

(13) "Mental health agency" means a community mental health agency, as defined in section 5119.22 of the Revised Code, under contract with a board of alcohol, drug addiction, and mental health services pursuant to division (A)(8)(a) of section 340.03 of the Revised Code.

(B) 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.

(C) Nothing in division (A)(6) of this section shall be construed to permit personal care services to be imposed upon a resident who is capable of performing the activity in question without assistance.

Sec. 3722.02. A person seeking a license to operate an adult care facility shall submit to the director of health an application on a form prescribed by the director and the following:

(A) In the case of an adult group home seeking licensure as an adult care facility, evidence that the home has been inspected and approved by a local certified building department or by the division of industrial compliance in the department of commerce as meeting the applicable requirements of sections 3781.06 to 3781.18 and 3791.04 of the Revised Code and any rules adopted under those sections and evidence that the home has been inspected by the state fire marshal or fire prevention officer of a municipal,

township, or other legally constituted fire department approved by 32703
the state fire marshal and found to be in compliance with rules 32704
adopted under section 3737.83 of the Revised Code regarding fire 32705
prevention and safety in adult group homes; 32706

(B) Valid approvals of the facility's water and sewage 32707
systems issued by the responsible governmental entity, if 32708
applicable; 32709

(C) A statement of ownership containing the following 32710
information: 32711

(1) If the owner is an individual, the owner's name, address, 32712
telephone number, business address, business telephone number, and 32713
occupation. If the owner is an association, corporation, or 32714
partnership, the business activity, address, and telephone number 32715
of the entity and the name of every person who has an ownership 32716
interest of five per cent or more in the entity. 32717

(2) If the owner does not own the building or if the owner 32718
owns only part of the building in which the facility is housed, 32719
the name of each person who has an ownership interest of five per 32720
cent or more in the building; 32721

(3) The address of any adult care facility and any facility 32722
described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of 32723
the Revised Code in which the owner has an ownership interest of 32724
five per cent or more; 32725

(4) The identity of the manager of the adult care facility, 32726
if different from the owner; 32727

(5) The name and address of any adult care facility and any 32728
facility described in divisions (A)(9)(a) to ~~(i)~~(h) of section 32729
3722.01 of the Revised Code with which either the owner or manager 32730
has been affiliated through ownership or employment in the five 32731
years prior to the date of the application; 32732

(6) The names and addresses of three persons not employed by 32733
or associated in business with the owner who will provide 32734
information about the character, reputation, and competence of the 32735
owner and the manager and the financial responsibility of the 32736
owner; 32737

(7) Information about any arrest of the owner or manager for, 32738
or adjudication or conviction of, a criminal offense related to 32739
the provision of care in an adult care facility or any facility 32740
described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of 32741
the Revised Code or the ability to operate a facility; 32742

(8) Any other information the director may require regarding 32743
the owner's ability to operate the facility. 32744

(D) If the facility is an adult group home, a balance sheet 32745
showing the assets and liabilities of the owner and a statement 32746
projecting revenues and expenses for the first twelve months of 32747
the facility's operation; 32748

(E) Proof of insurance in an amount and type determined in 32749
rules adopted by the public health council pursuant to this 32750
chapter to be adequate; 32751

(F) A nonrefundable license application fee in an amount 32752
established in rules adopted by the public health council pursuant 32753
to this chapter. 32754

Sec. 3734.01. As used in this chapter: 32755

(A) "Board of health" means the board of health of a city or 32756
general health district or the authority having the duties of a 32757
board of health in any city as authorized by section 3709.05 of 32758
the Revised Code. 32759

(B) "Director" means the director of environmental 32760
protection. 32761

(C) "Health district" means a city or general health district as created by or under authority of Chapter 3709. of the Revised Code. 32762
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(D) "Agency" means the environmental protection agency. 32765

(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. 32766
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(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 of scrap tires, the disposition or placement constitutes a beneficial use or occurs at a scrap tire recovery facility licensed under section 3734.81 of the Revised Code. 32783
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(G) "Person" includes the state, any political subdivision and other state or local body, the United States and any agency or 32791
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instrumentality thereof, and any legal entity defined as a person 32793
under section 1.59 of the Revised Code. 32794

(H) "Open burning" means the burning of solid wastes in an 32795
open area or burning of solid wastes in a type of chamber or 32796
vessel that is not approved or authorized in rules adopted by the 32797
director under section 3734.02 of the Revised Code or, if the 32798
solid wastes consist of scrap tires, in rules adopted under 32799
division (V) of this section or section 3734.73 of the Revised 32800
Code, or the burning of treated or untreated infectious wastes in 32801
an open area or in a type of chamber or vessel that is not 32802
approved in rules adopted by the director under section 3734.021 32803
of the Revised Code. 32804

(I) "Open dumping" means the depositing of solid wastes into 32805
a body or stream of water or onto the surface of the ground at a 32806
site that is not licensed as a solid waste facility under section 32807
3734.05 of the Revised Code or, if the solid wastes consist of 32808
scrap tires, as a scrap tire collection, storage, monocell, 32809
monofill, or recovery facility under section 3734.81 of the 32810
Revised Code; the depositing of solid wastes that consist of scrap 32811
tires onto the surface of the ground at a site or in a manner not 32812
specifically identified in divisions (C)(2) to (5), (7), or (10) 32813
of section 3734.85 of the Revised Code; the depositing of 32814
untreated infectious wastes into a body or stream of water or onto 32815
the surface of the ground; or the depositing of treated infectious 32816
wastes into a body or stream of water or onto the surface of the 32817
ground at a site that is not licensed as a solid waste facility 32818
under section 3734.05 of the Revised Code. 32819

(J) "Hazardous waste" means any waste or combination of 32820
wastes in solid, liquid, semisolid, or contained gaseous form that 32821
in the determination of the director, because of its quantity, 32822
concentration, or physical or chemical characteristics, may do 32823
either of the following: 32824

(1) Cause or significantly contribute to an increase in 32825
mortality or an increase in serious irreversible or incapacitating 32826
reversible illness; 32827

(2) Pose a substantial present or potential hazard to human 32828
health or safety or to the environment when improperly stored, 32829
treated, transported, disposed of, or otherwise managed. 32830

"Hazardous waste" includes any substance identified by 32831
regulation as hazardous waste under the "Resource Conservation and 32832
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 32833
amended, and does not include any substance that is subject to the 32834
"Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as 32835
amended. 32836

(K) "Treat" or "treatment," when used in connection with 32837
hazardous waste, means any method, technique, or process designed 32838
to change the physical, chemical, or biological characteristics or 32839
composition of any hazardous waste; to neutralize the waste; to 32840
recover energy or material resources from the waste; to render the 32841
waste nonhazardous or less hazardous, safer to transport, store, 32842
or dispose of, or amenable for recovery, storage, further 32843
treatment, or disposal; or to reduce the volume of the waste. When 32844
used in connection with infectious wastes, "treat" or "treatment" 32845
means any method, technique, or process designed to render the 32846
wastes noninfectious, including, without limitation, steam 32847
sterilization and incineration, or, in the instance of wastes 32848
identified in division (R)(7) of this section, to substantially 32849
reduce or eliminate the potential for the wastes to cause 32850
lacerations or puncture wounds. 32851

(L) "Manifest" means the form used for identifying the 32852
quantity, composition, origin, routing, and destination of 32853
hazardous waste during its transportation from the point of 32854
generation to the point of disposal, treatment, or storage. 32855

(M) "Storage," when used in connection with hazardous waste, 32856
means the holding of hazardous waste for a temporary period in 32857
such a manner that it remains retrievable and substantially 32858
unchanged physically and chemically and, at the end of the period, 32859
is treated; disposed of; stored elsewhere; or reused, recycled, or 32860
reclaimed in a beneficial manner. When used in connection with 32861
solid wastes that consist of scrap tires, "storage" means the 32862
holding of scrap tires for a temporary period in such a manner 32863
that they remain retrievable and, at the end of that period, are 32864
beneficially used; stored elsewhere; placed in a scrap tire 32865
monocell or monofill facility licensed under section 3734.81 of 32866
the Revised Code; processed at a scrap tire recovery facility 32867
licensed under that section or a solid waste incineration or 32868
energy recovery facility subject to regulation under this chapter; 32869
or transported to a scrap tire monocell, monofill, or recovery 32870
facility, any other solid waste facility authorized to dispose of 32871
scrap tires, or a facility that will beneficially use the scrap 32872
tires, that is located in another state and is operating in 32873
compliance with the laws of the state in which the facility is 32874
located. 32875

(N) "Facility" means any site, location, tract of land, 32876
installation, or building used for incineration, composting, 32877
sanitary landfilling, or other methods of disposal of solid wastes 32878
or, if the solid wastes consist of scrap tires, for the 32879
collection, storage, or processing of the solid wastes; for the 32880
transfer of solid wastes; for the treatment of infectious wastes; 32881
or for the storage, treatment, or disposal of hazardous waste. 32882

(O) "Closure" means the time at which a hazardous waste 32883
facility will no longer accept hazardous waste for treatment, 32884
storage, or disposal, the time at which a solid waste facility 32885
will no longer accept solid wastes for transfer or disposal or, if 32886
the solid wastes consist of scrap tires, for storage or 32887

processing, or the effective date of an order revoking the permit 32888
for a hazardous waste facility or the registration certificate, 32889
permit, or license for a solid waste facility, as applicable. 32890
"Closure" includes measures performed to protect public health or 32891
safety, to prevent air or water pollution, or to make the facility 32892
suitable for other uses, if any, including, but not limited to, 32893
the removal of processing residues resulting from solid wastes 32894
that consist of scrap tires; the establishment and maintenance of 32895
a suitable cover of soil and vegetation over cells in which 32896
hazardous waste or solid wastes are buried; minimization of 32897
erosion, the infiltration of surface water into such cells, the 32898
production of leachate, and the accumulation and runoff of 32899
contaminated surface water; the final construction of facilities 32900
for the collection and treatment of leachate and contaminated 32901
surface water runoff, except as otherwise provided in this 32902
division; the final construction of air and water quality 32903
monitoring facilities, except as otherwise provided in this 32904
division; the final construction of methane gas extraction and 32905
treatment systems; or the removal and proper disposal of hazardous 32906
waste or solid wastes from a facility when necessary to protect 32907
public health or safety or to abate or prevent air or water 32908
pollution. With regard to a solid waste facility that is a scrap 32909
tire facility, "closure" includes the final construction of 32910
facilities for the collection and treatment of leachate and 32911
contaminated surface water runoff and the final construction of 32912
air and water quality monitoring facilities only if those actions 32913
are determined to be necessary. 32914

(P) "Premises" means either of the following: 32915

(1) Geographically contiguous property owned by a generator; 32916

(2) Noncontiguous property that is owned by a generator and 32917
connected by a right-of-way that the generator controls and to 32918
which the public does not have access. Two or more pieces of 32919

property that are geographically contiguous and divided by public 32920
or private right-of-way or rights-of-way are a single premises. 32921

(Q) "Post-closure" means that period of time following 32922
closure during which a hazardous waste facility is required to be 32923
monitored and maintained under this chapter and rules adopted 32924
under it, including, without limitation, operation and maintenance 32925
of methane gas extraction and treatment systems, or the period of 32926
time after closure during which a scrap tire monocell or monofill 32927
facility licensed under section 3734.81 of the Revised Code is 32928
required to be monitored and maintained under this chapter and 32929
rules adopted under it. 32930

(R) "Infectious wastes" includes all of the following 32931
substances or categories of substances: 32932

(1) Cultures and stocks of infectious agents and associated 32933
biologicals, including, without limitation, specimen cultures, 32934
cultures and stocks of infectious agents, wastes from production 32935
of biologicals, and discarded live and attenuated vaccines; 32936

(2) Laboratory wastes that were, or are likely to have been, 32937
in contact with infectious agents that may present a substantial 32938
threat to public health if improperly managed; 32939

(3) Pathological wastes, including, without limitation, human 32940
and animal tissues, organs, and body parts, and body fluids and 32941
excreta that are contaminated with or are likely to be 32942
contaminated with infectious agents, removed or obtained during 32943
surgery or autopsy or for diagnostic evaluation, provided that, 32944
with regard to pathological wastes from animals, the animals have 32945
or are likely to have been exposed to a zoonotic or infectious 32946
agent; 32947

(4) Waste materials from the rooms of humans, or the 32948
enclosures of animals, that have been isolated because of 32949
diagnosed communicable disease that are likely to transmit 32950

infectious agents. Such waste materials from the rooms of humans 32951
do not include any wastes of patients who have been placed on 32952
blood and body fluid precautions under the universal precaution 32953
system established by the centers for disease control in the 32954
public health service of the United States department of health 32955
and human services, except to the extent specific wastes generated 32956
under the universal precautions system have been identified as 32957
infectious wastes by rules adopted under division (R)(8) of this 32958
section. 32959

(5) Human and animal blood specimens and blood products that 32960
are being disposed of, provided that, with regard to blood 32961
specimens and blood products from animals, the animals were or are 32962
likely to have been exposed to a zoonotic or infectious agent. 32963
"Blood products" does not include patient care waste such as 32964
bandages or disposable gowns that are lightly soiled with blood or 32965
other body fluids unless those wastes are soiled to the extent 32966
that the generator of the wastes determines that they should be 32967
managed as infectious wastes. 32968

(6) Contaminated carcasses, body parts, and bedding of 32969
animals that were intentionally exposed to infectious agents from 32970
zoonotic or human diseases during research, production of 32971
biologicals, or testing of pharmaceuticals, and carcasses and 32972
bedding of animals otherwise infected by zoonotic or infectious 32973
agents that may present a substantial threat to public health if 32974
improperly managed; 32975

(7) Sharp wastes used in the treatment, diagnosis, or 32976
inoculation of human beings or animals or that have, or are likely 32977
to have, come in contact with infectious agents in medical, 32978
research, or industrial laboratories, including, without 32979
limitation, hypodermic needles and syringes, scalpel blades, and 32980
glass articles that have been broken; 32981

(8) Any other waste materials generated in the diagnosis, 32982
treatment, or immunization of human beings or animals, in research 32983
pertaining thereto, or in the production or testing of 32984
biologicals, that the public health council created in section 32985
3701.33 of the Revised Code, by rules adopted in accordance with 32986
Chapter 119. of the Revised Code, identifies as infectious wastes 32987
after determining that the wastes present a substantial threat to 32988
human health when improperly managed because they are contaminated 32989
with, or are likely to be contaminated with, infectious agents. 32990

(S) "Infectious agent" means a type of microorganism, 32991
helminth, or virus that causes, or significantly contributes to 32992
the cause of, increased morbidity or mortality of human beings. 32993

(T) "Zoonotic agent" means a type of microorganism, helminth, 32994
or virus that causes disease in vertebrate animals and that is 32995
transmissible to human beings and causes or significantly 32996
contributes to the cause of increased morbidity or mortality of 32997
human beings. 32998

(U) "Solid waste transfer facility" means any site, location, 32999
tract of land, installation, or building that is used or intended 33000
to be used primarily for the purpose of transferring solid wastes 33001
that were generated off the premises of the facility from vehicles 33002
or containers into other vehicles for transportation to a solid 33003
waste disposal facility. "Solid waste transfer facility" does not 33004
include any facility that consists solely of portable containers 33005
that have an aggregate volume of fifty cubic yards or less nor any 33006
facility where legitimate recycling activities are conducted. 33007

(V) "Beneficially use" means to use a scrap tire in a manner 33008
that results in a commodity for sale or exchange or in any other 33009
manner authorized as a beneficial use in rules adopted by the 33010
director in accordance with Chapter 119. of the Revised Code. 33011

(W) "Commercial car," "commercial tractor," "farm machinery," 33012

"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 33013
the same meanings as in section 4501.01 of the Revised Code. 33014

(X) "Construction equipment" means road rollers, traction 33015
engines, power shovels, power cranes, and other equipment used in 33016
construction work, or in mining or producing or processing 33017
aggregates, and not designed for or used in general highway 33018
transportation. 33019

(Y) "Motor vehicle salvage dealer" has the same meaning as in 33020
section 4738.01 of the Revised Code. 33021

(Z) "Scrap tire" means an unwanted or discarded tire. 33022

(AA) "Scrap tire collection facility" means any facility that 33023
meets all of the following qualifications: 33024

(1) The facility is used for the receipt and storage of whole 33025
scrap tires from the public prior to their transportation to a 33026
scrap tire storage, monocell, monofill, or recovery facility 33027
licensed under section 3734.81 of the Revised Code; a solid waste 33028
incineration or energy recovery facility subject to regulation 33029
under this chapter; a premises within the state where the scrap 33030
tires will be beneficially used; or a scrap tire storage, 33031
monocell, monofill, or recovery facility, any other solid waste 33032
disposal facility authorized to dispose of scrap tires, or a 33033
facility that will beneficially use the scrap tires, that is 33034
located in another state, and that is operating in compliance with 33035
the laws of the state in which the facility is located. 33036

(2) The facility exclusively stores scrap tires in portable 33037
containers. 33038

(3) The aggregate storage of the portable containers in which 33039
the scrap tires are stored does not exceed five thousand cubic 33040
feet. 33041

(BB) "Scrap tire monocell facility" means an individual site 33042

within a solid waste landfill that is used exclusively for the 33043
environmentally sound storage or disposal of whole scrap tires or 33044
scrap tires that have been shredded, chipped, or otherwise 33045
mechanically processed. 33046

(CC) "Scrap tire monofill facility" means an engineered 33047
facility used or intended to be used exclusively for the storage 33048
or disposal of scrap tires, including at least facilities for the 33049
submergence of whole scrap tires in a body of water. 33050

(DD) "Scrap tire recovery facility" means any facility, or 33051
portion thereof, for the processing of scrap tires for the purpose 33052
of extracting or producing usable products, materials, or energy 33053
from the scrap tires through a controlled combustion process, 33054
mechanical process, or chemical process. "Scrap tire recovery 33055
facility" includes any facility that uses the controlled 33056
combustion of scrap tires in a manufacturing process to produce 33057
process heat or steam or any facility that produces usable heat or 33058
electric power through the controlled combustion of scrap tires in 33059
combination with another fuel, but does not include any solid 33060
waste incineration or energy recovery facility that is designed, 33061
constructed, and used for the primary purpose of incinerating 33062
mixed municipal solid wastes and that burns scrap tires in 33063
conjunction with mixed municipal solid wastes, or any tire 33064
retreading business, tire manufacturing finishing center, or tire 33065
adjustment center having on the premises of the business a single, 33066
covered scrap tire storage area at which not more than four 33067
thousand scrap tires are stored. 33068

(EE) "Scrap tire storage facility" means any facility where 33069
whole scrap tires are stored prior to their transportation to a 33070
scrap tire monocell, monofill, or recovery facility licensed under 33071
section 3734.81 of the Revised Code; a solid waste incineration or 33072
energy recovery facility subject to regulation under this chapter; 33073
a premises within the state where the scrap tires will be 33074

beneficially used; or a scrap tire storage, monocell, monofill, or 33075
recovery facility, any other solid waste disposal facility 33076
authorized to dispose of scrap tires, or a facility that will 33077
beneficially use the scrap tires, that is located in another 33078
state, and that is operating in compliance with the laws of the 33079
state in which the facility is located. 33080

(FF) "Used oil" means any oil that has been refined from 33081
crude oil, or any synthetic oil, that has been used and, as a 33082
result of that use, is contaminated by physical or chemical 33083
impurities. "Used oil" includes only those substances identified 33084
as used oil by the United States environmental protection agency 33085
under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 33086
U.S.C.A. 6901a, as amended. 33087

Sec. 3734.28. All moneys collected under sections 3734.122, 33088
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 33089
Code and natural resource damages collected by the state under the 33090
"Comprehensive Environmental Response, Compensation, and Liability 33091
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 33092
be paid into the state treasury to the credit of the hazardous 33093
waste clean-up fund, which is hereby created. In addition, any 33094
moneys recovered for costs paid from the fund for activities 33095
described in division (A)(1) and (2) of section 3745.12 of the 33096
Revised Code shall be credited to the fund. The environmental 33097
protection agency shall use the moneys in the fund for the 33098
purposes set forth in division (D) of section 3734.122, sections 33099
3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, 33100
and, through October 15, 2005, divisions (A)(1) and (2) of section 33101
3745.12 and Chapter 3746. of the Revised Code, including any 33102
related enforcement expenses. In addition, the agency shall use 33103
the moneys in the fund to pay the state's long-term operation and 33104
maintenance costs or matching share for actions taken under the 33105

"Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended. If those moneys are reimbursed by grants or other moneys from the United States or any other person, the moneys shall be placed in the fund and not in the general revenue fund.

~~Sec. 3734.57. (A) For the purposes of paying the state's long term operation costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; paying the costs of measures for proper clean up of sites where polychlorinated biphenyls and substances, equipment, and devices containing or contaminated with polychlorinated biphenyls have been stored or disposed of; paying the costs of conducting surveys or investigations of solid waste facilities or other locations where it is believed that significant quantities of hazardous waste were disposed of and for conducting enforcement actions arising from the findings of such surveys or investigations; paying the costs of acquiring and cleaning up, or providing financial assistance for cleaning up, any hazardous waste facility or solid waste facility containing significant quantities of hazardous waste, that constitutes an imminent and substantial threat to public health or safety or the environment; and, from July 1, 2003, through June 30, 2006, for the purposes of paying the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code, the The following fees are hereby levied on the disposal of~~

solid wastes in this state: 33138

(1) One dollar per ton on and after July 1, 1993, one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste facility management fund created in section 3734.18 of the Revised Code and one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste clean-up fund created in section 3734.28 of the Revised Code; 33139
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(2) An additional one dollar per ton on and after July 1, 2003, through June 30, 2006 2008, the proceeds of which shall be deposited in the state treasury to the credit of the solid waste fund, which is hereby created. The environmental protection agency shall use money in the solid waste fund to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, providing compliance assistance to small businesses, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code. 33146
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(3) An additional one dollar and fifty cents per ton on and after July 1, 2005, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in section 3745.015 of the Revised Code. 33160
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In the case of solid wastes that are taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility for disposal, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. In the case of solid wastes that are not taken to a solid waste transfer facility prior 33164
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to being transported to a solid waste disposal facility, the fees 33170
shall be collected by the owner or operator of the solid waste 33171
disposal facility as a trustee for the state. Fees levied under 33172
this division do not apply to materials separated from a mixed 33173
waste stream for recycling by a generator or materials removed 33174
from the solid waste stream through recycling, as "recycling" is 33175
defined in rules adopted under section 3734.02 of the Revised 33176
Code. 33177

The owner or operator of a solid waste transfer facility or 33178
disposal facility ~~shall collect the fees levied under this~~ 33179
~~division as a trustee for the state and, as applicable,~~ shall 33180
prepare and file with the director of environmental protection 33181
~~monthly returns~~ each month a return indicating the total tonnage 33182
of solid wastes received ~~for disposal at the gate of~~ the facility 33183
during that month and the total amount of the fees required to be 33184
collected under this division during that month. The amount of 33185
fees required to be collected under this division shall equal the 33186
total tonnage of solid wastes received at the facility multiplied 33187
by the fees levied under this division. The monthly returns shall 33188
be filed on a form prescribed by the director. Not later than 33189
thirty days after the last day of the month to which ~~such~~ a return 33190
applies, the owner or operator shall mail to the director the 33191
return for that month together with the fees required to be 33192
collected under this division during that month as indicated on 33193
the return. ~~The~~ If the return is filed and the amount of the fees 33194
due is paid in a timely manner as required in this division, the 33195
owner or operator may retain a discount of three-fourths of one 33196
per cent of the total amount of the fees that are required to be 33197
paid as indicated on the return. 33198

The owner or operator may request an extension of not more 33199
than thirty days for filing the return and remitting the fees, 33200
provided that the owner or operator has submitted such a request 33201

in writing to the director together with a detailed description of 33202
why the extension is requested, the director has received the 33203
request not later than the day on which the return is required to 33204
be filed, and the director has approved the request. If the fees 33205
are not remitted within thirty days after the last day of the 33206
month ~~during which they were collected to which the return applies~~ 33207
or are not remitted by the last day of an extension approved by 33208
the director, the owner or operator shall not retain the 33209
three-fourths of one per cent discount and shall pay an additional 33210
fifty ten per cent of the amount of the fees for each month that 33211
they are late. For purposes of calculating the late fee, the first 33212
month in which fees are late begins on the first day after the 33213
deadline has passed for timely submitting the return and fees, and 33214
one additional month shall be counted every thirty days 33215
thereafter. 33216

~~One half of the moneys remitted to the director under 33217
division (A)(1) of this section shall be credited to the hazardous 33218
waste facility management fund created in section 3734.18 of the 33219
Revised Code, and one half shall be credited to the hazardous 33220
waste clean up fund created in section 3734.28 of the Revised 33221
Code. The moneys remitted to the director under division (A)(2) of 33222
this section shall be credited to the solid waste fund, which is 33223
hereby created in the state treasury. The environmental protection 33224
agency shall use moneys in the solid waste fund only to pay the 33225
costs of administering and enforcing the laws pertaining to solid 33226
wastes, infectious wastes, and construction and demolition debris, 33227
including, without limitation, ground water evaluations related to 33228
solid wastes, infectious wastes, and construction and demolition 33229
debris, under this chapter and Chapter 3714. of the Revised Code 33230
and rules adopted under them and to pay a share of the 33231
administrative costs of the environmental protection agency 33232
pursuant to section 3745.014 of the Revised Code.~~ 33233

For purposes of computing the fees levied under this division 33234
or division (B) of this section, any solid waste transfer or 33235
disposal facility that does not use scales as a means of 33236
determining gate receipts shall use a conversion factor of three 33237
cubic yards per ton of solid waste or one cubic yard per ton for 33238
baled waste, as applicable. 33239

The fees levied under this division and divisions (B) and (C) 33240
of this section are in addition to all other applicable fees and 33241
taxes and shall be added to any other fee or amount specified in a 33242
contract that is charged by the owner or operator of a solid waste 33243
transfer or disposal facility or to any other fee or amount that 33244
is specified in a contract entered into on or after March 4, 1992, 33245
and that is charged by a transporter of solid wastes. 33246

(B) ~~For the purpose of preparing, revising, and implementing~~ 33247
~~the solid waste management plan of the county or joint solid waste~~ 33248
~~management district, including, without limitation, the~~ 33249
~~development and implementation of solid waste recycling or~~ 33250
~~reduction programs; providing financial assistance to boards of~~ 33251
~~health within the district, if solid waste facilities are located~~ 33252
~~within the district, for the enforcement of this chapter and rules~~ 33253
~~adopted and orders and terms and conditions of permits, licenses,~~ 33254
~~and variances issued under it, other than the hazardous waste~~ 33255
~~provisions of this chapter and rules adopted and orders and terms~~ 33256
~~and conditions of permits issued under those provisions; providing~~ 33257
~~financial assistance to the county to defray the added costs of~~ 33258
~~maintaining roads and other public facilities and of providing~~ 33259
~~emergency and other public services resulting from the location~~ 33260
~~and operation of a solid waste facility within the county under~~ 33261
~~the district's approved solid waste management plan; paying the~~ 33262
~~costs incurred by boards of health for collecting and analyzing~~ 33263
~~water samples from public or private wells on lands adjacent to~~ 33264
~~solid waste facilities that are contained in the approved or~~ 33265

~~amended plan of the district; paying the costs of developing and 33266
implementing a program for the inspection of solid wastes 33267
generated outside the boundaries of this state that are disposed 33268
of at solid waste facilities included in the district's approved 33269
solid waste management plan or amended plan; providing financial 33270
assistance to boards of health within the district for enforcing 33271
laws prohibiting open dumping; providing financial assistance to 33272
local law enforcement agencies within the district for enforcing 33273
laws and ordinances prohibiting littering; providing financial 33274
assistance to boards of health of health districts within the 33275
district that are on the approved list under section 3734.08 of 33276
the Revised Code for the training and certification required for 33277
their employees responsible for solid waste enforcement by rules 33278
adopted under division (L) of section 3734.02 of the Revised Code; 33279
providing financial assistance to individual municipal 33280
corporations and townships within the district to defray their 33281
added costs of maintaining roads and other public facilities and 33282
of providing emergency and other public services resulting from 33283
the location and operation within their boundaries of a 33284
composting, energy or resource recovery, incineration, or 33285
recycling facility that either is owned by the district or is 33286
furnishing solid waste management facility or recycling services 33287
to the district pursuant to a contract or agreement with the board 33288
of county commissioners or directors of the district; and payment 33289
of any expenses that are agreed to, awarded, or ordered to be paid 33290
under section 3734.35 of the Revised Code and of any 33291
administrative costs incurred pursuant to that section purposes 33292
specified in division (G) of this section, the solid waste 33293
management policy committee of a county or joint solid waste 33294
management district may levy fees upon the following activities: 33295~~

(1) The disposal at a solid waste disposal facility located 33296
in the district of solid wastes generated within the district; 33297

(2) The disposal at a solid waste disposal facility within 33298
the district of solid wastes generated outside the boundaries of 33299
the district, but inside this state; 33300

(3) The disposal at a solid waste disposal facility within 33301
the district of solid wastes generated outside the boundaries of 33302
this state. 33303

~~If any such fees are levied prior to January 1, 1994, fees~~ 33304
Fees levied under division (B)(1) of this section always shall be 33305
equal to one-half of the fees levied under division (B)(2) of this 33306
section, and fees levied under division (B)(3) of this section, 33307
~~which shall be in addition to fees levied under division (B)(2) of~~ 33308
~~this section,~~ always shall be equal to fees levied under division 33309
(B)(1) of this section, ~~except as otherwise provided in this~~ 33310
~~division.~~ The solid waste management plan of the county or joint 33311
district approved under section 3734.521 or 3734.55 of the Revised 33312
Code and any amendments to it, or the resolution adopted under 33313
this division, as appropriate, shall establish the rates of the 33314
fees levied under divisions (B)(1), (2), and (3) of this section, 33315
if any, and shall specify whether the fees are levied on the basis 33316
of tons or cubic yards as the unit of measurement. ~~Although the~~ 33317
~~fees under divisions (A)(1) and (2) of this section are levied on~~ 33318
~~the basis of tons as the unit of measurement, the~~ A solid waste 33319
~~management plan of the district and any amendments to it or the~~ 33320
~~solid waste management policy committee in its resolution levying~~ 33321
~~fees under this division may direct that the~~ levies fees levied 33322
~~under those divisions be levied~~ this division on the basis of 33323
cubic yards as the unit of measurement based upon a conversion 33324
~~factor of three cubic yards per ton generally or one cubic yard~~ 33325
~~per ton for baled wastes if the fees under divisions (B)(1) to (3)~~ 33326
~~of this section are being levied on the basis of cubic yards as~~ 33327
~~the unit of measurement under the plan, amended plan, or~~ 33328
~~resolution shall do so in accordance with division (A) of this~~ 33329

section. 33330

~~On and after January 1, 1994, the The fee levied under 33331~~
division (B)(1) of this section shall be not less than one dollar 33332
per ton nor more than two dollars per ton, the fee levied under 33333
division (B)(2) of this section shall be not less than two dollars 33334
per ton nor more than four dollars per ton, and the fee levied 33335
under division (B)(3) of this section shall be not more than the 33336
fee levied under division (B)(1) of this section, ~~except as 33337~~
~~otherwise provided in this division and notwithstanding any 33338~~
~~schedule of those fees established in the solid waste management 33339~~
~~plan of a county or joint district approved under section 3734.55 33340~~
~~of the Revised Code or a resolution adopted and ratified under 33341~~
~~this division that is in effect on that date. If the fee that a 33342~~
~~district is levying under division (B)(1) of this section on that 33343~~
~~date under its approved plan or such a resolution is less than one 33344~~
~~dollar per ton, the fee shall be one dollar per ton on and after 33345~~
~~January 1, 1994, and if the fee that a district is so levying 33346~~
~~under that division exceeds two dollars per ton, the fee shall be 33347~~
~~two dollars per ton on and after that date. If the fee that a 33348~~
~~district is so levying under division (B)(2) of this section is 33349~~
~~less than two dollars per ton, the fee shall be two dollars per 33350~~
~~ton on and after that date, and if the fee that the district is so 33351~~
~~levying under that division exceeds four dollars per ton, the fee 33352~~
~~shall be four dollars per ton on and after that date. On that 33353~~
~~date, the fee levied by a district under division (B)(3) of this 33354~~
~~section shall be equal to the fee levied under division (B)(1) of 33355~~
~~this section. Except as otherwise provided in this division, the 33356~~
~~fees established by the operation of this amendment shall remain 33357~~
~~in effect until the district's resolution levying fees under this 33358~~
~~division is amended or repealed in accordance with this division 33359~~
~~to amend or abolish the schedule of fees, the schedule of fees is 33360~~
~~amended or abolished in an amended plan of the district approved 33361~~
~~under section 3734.521 or division (A) or (D) of section 3734.56 33362~~

~~of the Revised Code, or the schedule of fees is amended or 33363
abolished through an amendment to the district's plan under 33364
division (E) of section 3734.56 of the Revised Code; the 33365
notification of the amendment or abolishment of the fees has been 33366
given in accordance with this division; and collection of the 33367
amended fees so established commences, or collection of the fees 33368
ceases, in accordance with this division. 33369~~

~~The solid waste management policy committee of a district 33370
levying fees under divisions (B)(1) to (3) of this section on 33371
October 29, 1993, under its solid waste management plan approved 33372
under section 3734.55 of the Revised Code or a resolution adopted 33373
and ratified under this division that are within the ranges of 33374
rates prescribed by this amendment, by adoption of a resolution 33375
not later than December 1, 1993, and without the necessity for 33376
ratification of the resolution under this division, may amend 33377
those fees within the prescribed ranges, provided that the 33378
estimated revenues from the amended fees will not substantially 33379
exceed the estimated revenues set forth in the district's budget 33380
for calendar year 1994. Not later than seven days after the 33381
adoption of such a resolution, the committee shall notify by 33382
certified mail the owner or operator of each solid waste disposal 33383
facility that is required to collect the fees of the adoption of 33384
the resolution and of the amount of the amended fees. Collection 33385
of the amended fees shall take effect on the first day of the 33386
first month following the month in which the notification is sent 33387
to the owner or operator. The fees established in such a 33388
resolution shall remain in effect until the district's resolution 33389
levying fees that was adopted and ratified under this division is 33390
amended or repealed, and the amendment or repeal of the resolution 33391
is ratified, in accordance with this division, to amend or abolish 33392
the fees, the schedule of fees is amended or abolished in an 33393
amended plan of the district approved under section 3734.521 or 33394
division (A) or (D) of section 3734.56 of the Revised Code, or the 33395~~

~~schedule of fees is amended or abolished through an amendment to 33396
the district's plan under division (E) of section 3734.56 of the 33397
Revised Code; the notification of the amendment or abolishment of 33398
the fees has been given in accordance with this division; and 33399
collection of the amended fees so established commences, or 33400
collection of the fees ceases, in accordance with this division. 33401~~

Prior to the approval of the solid waste management plan of 33402
the a district under section 3734.55 of the Revised Code, the 33403
solid waste management policy committee of a district may levy 33404
fees under this division by adopting a resolution establishing the 33405
proposed amount of the fees. Upon adopting the resolution, the 33406
committee shall deliver a copy of the resolution to the board of 33407
county commissioners of each county forming the district and to 33408
the legislative authority of each municipal corporation and 33409
township under the jurisdiction of the district and shall prepare 33410
and publish the resolution and a notice of the time and location 33411
where a public hearing on the fees will be held. Upon adopting the 33412
resolution, the committee shall deliver written notice of the 33413
adoption of the resolution; of the amount of the proposed fees; 33414
and of the date, time, and location of the public hearing to the 33415
director and to the fifty industrial, commercial, or institutional 33416
generators of solid wastes within the district that generate the 33417
largest quantities of solid wastes, as determined by the 33418
committee, and to their local trade associations. The committee 33419
shall make good faith efforts to identify those generators within 33420
the district and their local trade associations, but the 33421
nonprovision of notice under this division to a particular 33422
generator or local trade association does not invalidate the 33423
proceedings under this division. The publication shall occur at 33424
least thirty days before the hearing. After the hearing, the 33425
committee may make such revisions to the proposed fees as it 33426
considers appropriate and thereafter, by resolution, shall adopt 33427

the revised fee schedule. Upon adopting the revised fee schedule, 33428
the committee shall deliver a copy of the resolution doing so to 33429
the board of county commissioners of each county forming the 33430
district and to the legislative authority of each municipal 33431
corporation and township under the jurisdiction of the district. 33432
Within sixty days after the delivery of a copy of the resolution 33433
adopting the proposed revised fees by the policy committee, each 33434
such board and legislative authority, by ordinance or resolution, 33435
shall approve or disapprove the revised fees and deliver a copy of 33436
the ordinance or resolution to the committee. If any such board or 33437
legislative authority fails to adopt and deliver to the policy 33438
committee an ordinance or resolution approving or disapproving the 33439
revised fees within sixty days after the policy committee 33440
delivered its resolution adopting the proposed revised fees, it 33441
shall be conclusively presumed that the board or legislative 33442
authority has approved the proposed revised fees. The committee 33443
shall determine if the resolution has been ratified in the same 33444
manner in which it determines if a draft solid waste management 33445
plan has been ratified under division (B) of section 3734.55 of 33446
the Revised Code. 33447

~~In the case of a county district or a joint district formed 33448~~
~~by two or three counties, the committee shall declare the proposed 33449~~
~~revised fees to be ratified as the fee schedule of the district 33450~~
~~upon determining that the board of county commissioners of each 33451~~
~~county forming the district has approved the proposed revised fees 33452~~
~~and that the legislative authorities of a combination of municipal 33453~~
~~corporations and townships with a combined population within the 33454~~
~~district comprising at least sixty per cent of the total 33455~~
~~population of the district have approved the proposed revised 33456~~
~~fees, provided that in the case of a county district, that 33457~~
~~combination shall include the municipal corporation having the 33458~~
~~largest population within the boundaries of the district, and 33459~~
~~provided further that in the case of a joint district formed by 33460~~

~~two or three counties, that combination shall include for each
county forming the joint district the municipal corporation having
the largest population within the boundaries of both the county in
which the municipal corporation is located and the joint district.
In the case of a joint district formed by four or more counties,
the committee shall declare the proposed revised fees to be
ratified as the fee schedule of the joint district upon
determining that the boards of county commissioners of a majority
of the counties forming the district have approved the proposed
revised fees; that, in each of a majority of the counties forming
the joint district, the proposed revised fees have been approved
by the municipal corporation having the largest population within
the county and the joint district; and that the legislative
authorities of a combination of municipal corporations and
townships with a combined population within the joint district
comprising at least sixty per cent of the total population of the
joint district have approved the proposed revised fees.~~

~~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.~~

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 33493
a resolution, the committee shall proceed to obtain ratification 33494
of the resolution in accordance with this division. 33495

Not later than fourteen days after declaring the new fees ~~or~~ 33496
~~amended fees~~ to be ratified or the fees to be repealed under this 33497
division, the committee shall notify by certified mail the owner 33498
or operator of each solid waste disposal facility that is required 33499
to collect the fees of the ratification and the amount of the fees 33500
or of the repeal of the fees. Collection of any fees ~~or amended~~ 33501
~~fees ratified on or after March 24, 1992,~~ shall commence or 33502
collection of repealed fees shall cease on the first day of the 33503
second month following the month in which notification is sent to 33504
the owner or operator. 33505

~~Not later than fourteen days after declaring the repeal of~~ 33506
~~the district's schedule of fees to be ratified under this~~ 33507
~~division, the committee shall notify by certified mail the owner~~ 33508
~~or operator of each facility that is collecting the fees of the~~ 33509
~~repeal. Collection of the fees shall cease on the first day of the~~ 33510
~~second month following the month in which notification is sent to~~ 33511
~~the owner or operator.~~ 33512

Fees levied under this division also may be established, 33513
amended, or repealed by a solid waste management policy committee 33514
through the adoption of a new district solid waste management 33515
plan, the adoption of an amended plan, or the amendment of the 33516
plan or amended plan in accordance with sections 3734.55 and 33517
3734.56 of the Revised Code or the adoption or amendment of a 33518
district plan in connection with a change in district composition 33519
under section 3734.521 of the Revised Code. 33520

Not later than fourteen days after the director issues an 33521
order approving a district's solid waste management plan ~~under~~ 33522
~~section 3734.55 of the Revised Code or,~~ amended plan ~~under~~ 33523
~~division (A) or (D) of section 3734.56 of the Revised Code, or~~ 33524

~~amendment to a plan or amended plan that establishes or, amends,~~ 33525
~~or repeals~~ a schedule of fees levied by the district, ~~or the~~ 33526
~~ratification of an amendment to the district's approved plan or~~ 33527
~~amended plan under division (E) of section 3734.56 of the Revised~~ 33528
~~Code that establishes or amends a schedule of fees, as~~ 33529
~~appropriate,~~ the committee shall notify by certified mail the 33530
owner or operator of each solid waste disposal facility that is 33531
required to collect the fees of the approval of the plan or 33532
amended plan, or the amendment to the plan, as appropriate, and 33533
the amount of the fees ~~or amended fees, if any.~~ In the case of an 33534
initial or amended plan approved under section 3734.521 of the 33535
Revised Code in connection with a change in district composition, 33536
other than one involving the withdrawal of a county from a joint 33537
district, ~~that establishes or amends a schedule of fees levied~~ 33538
~~under divisions (B)(1) to (3) of this section by a district~~ 33539
~~resulting from the change,~~ the committee, within fourteen days 33540
after the change takes effect pursuant to division (G) of that 33541
section, shall notify by certified mail the owner or operator of 33542
each solid waste disposal facility that is required to collect the 33543
fees that the change has taken effect and of the amount of the 33544
fees ~~or amended fees, if any.~~ Collection of any fees ~~set forth in~~ 33545
~~a plan or amended plan approved by the director on or after April~~ 33546
~~16, 1993, or an amendment of a plan or amended plan under division~~ 33547
~~(E) of section 3734.56 of the Revised Code that is ratified on or~~ 33548
~~after April 16, 1993,~~ shall commence or collection of repealed 33549
fees shall cease on the first day of the second month following 33550
the month in which notification is sent to the owner or operator. 33551

~~Not later than fourteen days after the director issues an~~ 33552
~~order approving a district's plan under section 3734.55 of the~~ 33553
~~Revised Code or amended plan under division (A) or (D) of section~~ 33554
~~3734.56 of the Revised Code that abolishes the schedule of fees~~ 33555
~~levied under divisions (B)(1) to (3) of this section, or an~~ 33556
~~amendment to the district's approved plan or amended plan~~ 33557

~~abolishing the schedule of fees is ratified pursuant to division
(E) of section 3734.56 of the Revised Code, as appropriate, the
committee shall notify by certified mail the owner or operator of
each facility that is collecting the fees of the approval of the
plan or amended plan, or the amendment of the plan or amended
plan, as appropriate, and the abolishment of the fees. 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 abolishes the 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
after the change takes effect pursuant to division (C) of that
section, shall notify by certified mail the owner or operator of
each solid waste disposal facility that is required to collect the
fees that the change has taken effect and of the abolishment of
the fees. 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.~~

~~Except as otherwise provided in this division, if the
schedule of fees that a district is 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 the district approved under section
3734.55 of the Revised Code, an amended plan approved under
division (A) or (D) of section 3734.56 of the Revised Code, or an
amendment to the district's approved plan or amended plan under
division (E) of section 3734.56 of the Revised Code, is amended by
the adoption and ratification of an amendment to the resolution or
amended resolution or an amendment of the district's approved plan
or amended plan, the fees in effect immediately prior to the
approval of the plan or the amendment of the resolution, amended~~

~~resolution, plan, or amended plan, as appropriate, shall continue~~ 33590
~~to be collected until collection of the amended fees commences~~ 33591
~~pursuant to this division.~~ 33592

If, in the case of a change in district composition involving 33593
the withdrawal of a county from a joint district, the director 33594
completes the actions required under division (G)(1) or (3) of 33595
section 3734.521 of the Revised Code, as appropriate, forty-five 33596
days or more before the beginning of a calendar year, the policy 33597
committee of each of the districts resulting from the change that 33598
obtained the director's approval of an initial or amended plan in 33599
connection with the change, within fourteen days after the 33600
director's completion of the required actions, shall notify by 33601
certified mail the owner or operator of each solid waste disposal 33602
facility that is required to collect the district's fees that the 33603
change is to take effect on the first day of January immediately 33604
following the issuance of the notice and of the amount of the fees 33605
or amended fees levied under divisions (B)(1) to (3) of this 33606
section pursuant to the district's initial or amended plan as so 33607
approved or, if appropriate, the ~~abolishment~~ repeal of the 33608
district's fees by that initial or amended plan. Collection of any 33609
fees set forth in such a plan or amended plan shall commence on 33610
the first day of January immediately following the issuance of the 33611
notice. If such an initial or amended plan ~~abolishes~~ repeals a 33612
schedule of fees, collection of the fees shall cease on that first 33613
day of January. 33614

If, in the case of a change in district composition involving 33615
the withdrawal of a county from a joint district, the director 33616
completes the actions required under division (G)(1) or (3) of 33617
section 3734.521 of the Revised Code, as appropriate, less than 33618
forty-five days before the beginning of a calendar year, the 33619
director, on behalf of each of the districts resulting from the 33620
change that obtained the director's approval of an initial or 33621

amended plan in connection with the change proceedings, shall 33622
notify by certified mail the owner or operator of each solid waste 33623
disposal facility that is required to collect the district's fees 33624
that the change is to take effect on the first day of January 33625
immediately following the mailing of the notice and of the amount 33626
of the fees or amended fees levied under divisions (B)(1) to (3) 33627
of this section pursuant to the district's initial or amended plan 33628
as so approved or, if appropriate, the ~~abolishment~~ repeal of the 33629
district's fees by that initial or amended plan. Collection of any 33630
fees set forth in such a plan or amended plan shall commence on 33631
the first day of the second month following the month in which 33632
notification is sent to the owner or operator. If such an initial 33633
or amended plan ~~abolishes~~ repeals a schedule of fees, collection 33634
of the fees shall cease on the first day of the second month 33635
following the month in which notification is sent to the owner or 33636
operator. 33637

~~In~~ If the schedule of fees that a solid waste management 33638
district is levying under divisions (B)(1) to (3) of this section 33639
is amended or repealed, the fees in effect immediately prior to 33640
the amendment or repeal shall continue to be collected until 33641
collection of the amended fees commences or collection of the 33642
repealed fees ceases, as applicable, as specified in this 33643
division. In the case of a change in district composition, ~~the~~ 33644
~~schedule of fees that the former districts that existed prior to~~ 33645
~~the change were levying under divisions (B)(1) to (3) of this~~ 33646
~~section pursuant to a resolution or amended resolution adopted and~~ 33647
~~ratified under this division, the solid waste management plan of a~~ 33648
~~former district approved under section 3734.521 or 3734.55 of the~~ 33649
~~Revised Code, an amended plan approved under section 3734.521 or~~ 33650
~~division (A) or (D) of section 3734.56 of the Revised Code, or an~~ 33651
~~amendment to a former district's approved plan or amended plan~~ 33652
~~under division (E) of section 3734.56 of the Revised Code, and~~ 33653

~~that were in effect on the date that the director completed the~~ 33654
~~actions required under division (G)(1) or (3) of section 3734.521~~ 33655
~~of the Revised Code shall continue to be collected until the~~ 33656
~~collection of the fees or amended fees of the districts resulting~~ 33657
~~from the change is required to commence, or if an initial or~~ 33658
~~amended plan of a resulting district abolishes a schedule of fees,~~ 33659
~~collection of the fees is required to cease, under this division.~~ 33660
Moneys money so received from the collection of the fees of the 33661
former districts shall be divided among the resulting districts in 33662
accordance with division (B) of section 343.012 of the Revised 33663
Code and the agreements entered into under division (B) of section 33664
343.01 of the Revised Code to establish the former and resulting 33665
districts and any amendments to those agreements. 33666

For the purposes of the provisions of division (B) of this 33667
section establishing the times when newly established or amended 33668
fees levied by a district are required to commence and the 33669
collection of fees that have been amended or ~~abolished~~ repealed is 33670
required to cease, "fees" or "schedule of fees" includes, in 33671
addition to fees levied under divisions (B)(1) to (3) of this 33672
section, those levied under section 3734.573 or 3734.574 of the 33673
Revised Code. 33674

(C) For the purposes of defraying the added costs to a 33675
municipal corporation or township of maintaining roads and other 33676
public facilities and of providing emergency and other public 33677
services, and compensating a municipal corporation or township for 33678
reductions in real property tax revenues due to reductions in real 33679
property valuations resulting from the location and operation of a 33680
solid waste disposal facility within the municipal corporation or 33681
township, a municipal corporation or township in which such a 33682
solid waste disposal facility is located may levy a fee of not 33683
more than twenty-five cents per ton on the disposal of solid 33684
wastes at a solid waste disposal facility located within the 33685

boundaries of the municipal corporation or township regardless of 33686
where the wastes were generated. 33687

The legislative authority of a municipal corporation or 33688
township may levy fees under this division by enacting an 33689
ordinance or adopting a resolution establishing the amount of the 33690
fees. Upon so doing the legislative authority shall mail a 33691
certified copy of the ordinance or resolution to the board of 33692
county commissioners or directors of the county or joint solid 33693
waste management district in which the municipal corporation or 33694
township is located or, if a regional solid waste management 33695
authority has been formed under section 343.011 of the Revised 33696
Code, to the board of trustees of that regional authority, the 33697
owner or operator of each solid waste disposal facility in the 33698
municipal corporation or township that is required to collect the 33699
fee by the ordinance or resolution, and the director of 33700
environmental protection. Although the fees levied under this 33701
division are levied on the basis of tons as the unit of 33702
measurement, the legislative authority, in its ordinance or 33703
resolution levying the fees under this division, may direct that 33704
the fees be levied on the basis of cubic yards as the unit of 33705
measurement based upon a conversion factor of three cubic yards 33706
per ton generally or one cubic yard per ton for baled wastes. 33707

Not later than five days after enacting an ordinance or 33708
adopting a resolution under this division, the legislative 33709
authority shall so notify by certified mail the owner or operator 33710
of each solid waste disposal facility that is required to collect 33711
the fee. Collection of any fee levied on or after March 24, 1992, 33712
shall commence on the first day of the second month following the 33713
month in which notification is sent to the owner or operator. 33714

(D)(1) The fees levied under divisions (A), (B), and (C) of 33715
this section do not apply to the disposal of solid wastes that: 33716

(a) Are disposed of at a facility owned by the generator of 33717
the wastes when the solid waste facility exclusively disposes of 33718
solid wastes generated at one or more premises owned by the 33719
generator regardless of whether the facility is located on a 33720
premises where the wastes are generated; 33721

(b) Are disposed of at facilities that exclusively dispose of 33722
wastes that are generated from the combustion of coal, or from the 33723
combustion of primarily coal in combination with scrap tires, that 33724
is not combined in any way with garbage at one or more premises 33725
owned by the generator. 33726

(2) Except as provided in section 3734.571 of the Revised 33727
Code, any fees levied under division (B)(1) of this section apply 33728
to solid wastes originating outside the boundaries of a county or 33729
joint district that are covered by an agreement for the joint use 33730
of solid waste facilities entered into under section 343.02 of the 33731
Revised Code by the board of county commissioners or board of 33732
directors of the county or joint district where the wastes are 33733
generated and disposed of. 33734

(3) When solid wastes, other than solid wastes that consist 33735
of scrap tires, are burned in a disposal facility that is an 33736
incinerator or energy recovery facility, the fees levied under 33737
divisions (A), (B), and (C) of this section shall be levied upon 33738
the disposal of the fly ash and bottom ash remaining after burning 33739
of the solid wastes and shall be collected by the owner or 33740
operator of the sanitary landfill where the ash is disposed of. 33741

(4) When solid wastes are delivered to a solid waste transfer 33742
facility, the fees levied under divisions (A), (B), and (C) of 33743
this section shall be levied upon the disposal of solid wastes 33744
transported off the premises of the transfer facility for disposal 33745
and shall be collected by the owner or operator of the solid waste 33746
disposal facility where the wastes are disposed of. 33747

(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.

(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.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire 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 or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility where the ash or other solid wastes are disposed of.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter,

has the duties of the treasurer or to the clerk of the township, 33780
as appropriate, in accordance with those rules. 33781

(F) Moneys received by the treasurer or such other officer of 33782
the municipal corporation under division (E) of this section shall 33783
be paid into the general fund of the municipal corporation. Moneys 33784
received by the clerk of the township under that division shall be 33785
paid into the general fund of the township. The treasurer or such 33786
other officer of the municipal corporation or the clerk, as 33787
appropriate, shall maintain separate records of the moneys 33788
received from the fees levied under division (C) of this section. 33789

(G) Moneys received by the board of county commissioners or 33790
board of directors under division (E) of this section or section 33791
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 33792
shall be paid to the county treasurer, or other official acting in 33793
a similar capacity under a county charter, in a county district or 33794
to the county treasurer or other official designated by the board 33795
of directors in a joint district and kept in a separate and 33796
distinct fund to the credit of the district. If a regional solid 33797
waste management authority has been formed under section 343.011 33798
of the Revised Code, moneys received by the board of trustees of 33799
that regional authority under division (E) of this section shall 33800
be kept by the board in a separate and distinct fund to the credit 33801
of the district. Moneys in the special fund of the county or joint 33802
district arising from the fees levied under division (B) of this 33803
section and the fee levied under division (A) of section 3734.573 33804
of the Revised Code shall be expended by the board of county 33805
commissioners or directors of the district in accordance with the 33806
district's solid waste management plan or amended plan approved 33807
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 33808
exclusively for the following purposes: 33809

(1) Preparation of the solid waste management plan of the 33810
district under section 3734.54 of the Revised Code, monitoring 33811

implementation of the plan, and conducting the periodic review and 33812
amendment of the plan required by section 3734.56 of the Revised 33813
Code by the solid waste management policy committee; 33814

(2) Implementation of the approved solid waste management 33815
plan or amended plan of the district, including, without 33816
limitation, the development and implementation of solid waste 33817
recycling or reduction programs; 33818

(3) Providing financial assistance to boards of health within 33819
the district, if solid waste facilities are located within the 33820
district, for enforcement of this chapter and rules, orders, and 33821
terms and conditions of permits, licenses, and variances adopted 33822
or issued under it, other than the hazardous waste provisions of 33823
this chapter and rules adopted and orders and terms and conditions 33824
of permits issued under those provisions; 33825

(4) Providing financial assistance to each county within the 33826
district to defray the added costs of maintaining roads and other 33827
public facilities and of providing emergency and other public 33828
services resulting from the location and operation of a solid 33829
waste facility within the county under the district's approved 33830
solid waste management plan or amended plan; 33831

(5) Pursuant to contracts entered into with boards of health 33832
within the district, if solid waste facilities contained in the 33833
district's approved plan or amended plan are located within the 33834
district, for paying the costs incurred by those boards of health 33835
for collecting and analyzing samples from public or private water 33836
wells on lands adjacent to those facilities; 33837

(6) Developing and implementing a program for the inspection 33838
of solid wastes generated outside the boundaries of this state 33839
that are disposed of at solid waste facilities included in the 33840
district's approved solid waste management plan or amended plan; 33841

(7) Providing financial assistance to boards of health within 33842

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;

(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;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

Prior to the approval of the district's solid waste management plan under section 3734.55 of the Revised Code, moneys in the special fund of the district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

Notwithstanding division (G)(6) of this section as it existed prior to October 29, 1993, or any provision in a district's solid waste management plan prepared in accordance with division (B)(2)(e) of section 3734.53 of the Revised Code as it existed prior to that date, any moneys arising from the fees levied under division (B)(3) of this section prior to January 1, 1994, may be expended for any of the purposes authorized in divisions (G)(1) to (10) of this section.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of county commissioners or directors of county or joint solid waste management districts and to the treasurers or other officers of municipal corporations or to the clerks of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this section. ~~Collection of the fees levied under division (A)(1) of this section shall commence on July 1, 1993. Collection of the fees levied under division (A)(2) of this section shall commence on January 1, 1994.~~

Sec. 3734.901. (A)(1) For the purpose of providing revenue to defray the cost of administering and enforcing the scrap tire provisions of this chapter, rules adopted under those provisions, and terms and conditions of orders, variances, and licenses issued

under those provisions; to abate accumulations of scrap tires; to 33906
make grants to promote research regarding alternative methods of 33907
recycling scrap tires and loans to promote the recycling or 33908
recovery of energy from scrap tires; and to defray the costs of 33909
administering and enforcing sections 3734.90 to 3734.9014 of the 33910
Revised Code, a fee of fifty cents per tire is hereby levied on 33911
the sale of tires. The fee is levied from the first day of the 33912
calendar month that begins next after thirty days from October 29, 33913
1993, through June 30, ~~2006~~ 2011. 33914

(2) Beginning on ~~the effective date of this section~~ September 33915
5, 2001, and ending on June 30, 2011, there is hereby levied an 33916
additional fee of fifty cents per tire on the sale of tires the 33917
proceeds of which shall be deposited in the state treasury to the 33918
credit of the scrap tire management fund created in section 33919
3734.82 of the Revised Code and be used exclusively for the 33920
purposes specified in division (G)(3) of that section. 33921

(3) Beginning July 1, 2005, there is hereby levied an 33922
additional fee of one dollar per tire on the sale of tires, the 33923
proceeds of which shall be deposited into the state treasury to 33924
the credit of the recycling and litter prevention fund created in 33925
section 1502.02 of the Revised Code. 33926

(B) Only one sale of the same article shall be used in 33927
computing the amount of the fee due. 33928

Sec. 3734.9010. ~~Four~~ Two per cent of all amounts paid to the 33929
treasurer of state pursuant to sections 3734.90 to 3734.9014 of 33930
the Revised Code shall be certified directly to the credit of the 33931
tire fee administrative fund, which is hereby created in the state 33932
treasury, for appropriation to the department of taxation for use 33933
in administering those sections. The remainder of the amounts paid 33934
to the treasurer of state shall be deposited to the credit of the 33935
scrap tire management fund created in section 3734.82 of the 33936

Revised Code, except that the amounts from the fee levied under 33937
division (A)(3) of section 3734.901 of the Revised Code shall be 33938
deposited to the credit of the recycling and litter prevention 33939
fund created in section 1502.02 of the Revised Code. 33940

Sec. 3743.57. (A) All fees collected by the fire marshal for 33941
licenses or permits issued pursuant to this chapter shall be 33942
deposited into the state fire marshal's fund, and interest earned 33943
on the amounts in the fund shall be credited by the treasurer of 33944
state to the fund. 33945

~~(B) There is hereby established in the state treasury the~~ 33946
~~fire marshal's fireworks training and education fund. The fire~~ 33947
~~marshal shall deposit all assessments paid under this division~~ 33948
~~into the state treasury to the credit of the fund. Each fireworks~~ 33949
~~manufacturer and fireworks wholesaler licensed under this chapter~~ 33950
~~shall pay assessments to the fire marshal for deposit into the~~ 33951
~~fund as required by this division.~~ 33952

~~The fire marshal shall impose an initial assessment upon each~~ 33953
~~licensed fireworks manufacturer and wholesaler in order to~~ 33954
~~establish a fund balance of fifteen thousand dollars. The fund~~ 33955
~~balance shall at no time exceed fifteen thousand dollars, and the~~ 33956
~~fire marshal shall impose no further assessments unless the fund~~ 33957
~~balance is reduced to five thousand dollars or less. If the fund~~ 33958
~~balance is reduced to five thousand dollars or less, the fire~~ 33959
~~marshal shall impose an additional assessment upon each licensed~~ 33960
~~fireworks manufacturer and wholesaler in order to increase the~~ 33961
~~fund balance to fifteen thousand dollars. The fire marshal shall~~ 33962
~~determine the amount of the initial assessment on each~~ 33963
~~manufacturer or wholesaler and each additional assessment by~~ 33964
~~dividing the total amount needed to be paid into the fund by the~~ 33965
~~total number of fireworks manufacturers and wholesalers licensed~~ 33966
~~under this chapter. If a licensed fireworks manufacturer or~~ 33967

~~wholesaler fails to pay an assessment required by this division 33968
within thirty days after receiving notice of the assessment, the 33969
fire marshal, in accordance with Chapter 119. of the Revised Code, 33970
may refuse to issue, or may revoke, the appropriate license. 33971~~

The fire marshal shall in the fire marshal's discretion use 33972
amounts in the state fire marshal's fund for fireworks training 33973
and education purposes, including, but not limited to, the 33974
creation of educational and training programs, attendance by the 33975
fire marshal and the fire marshal's employees at conferences and 33976
seminars, the payment of travel and meal expenses associated with 33977
such attendance, participation by the fire marshal and the fire 33978
marshal's employees in committee meetings and other meetings 33979
related to pyrotechnic codes, and the payment of travel and meal 33980
expenses associated with such participation. The use of the fund 33981
shall comply with rules of the department of commerce, policies 33982
and procedures established by the director of budget and 33983
management, and all other applicable laws. 33984

Sec. 3745.015. There is hereby created in the state treasury 33985
the environmental protection fund consisting of money credited to 33986
the fund under division (A)(3) of section 3734.57 of the Revised 33987
Code. The environmental protection agency shall use money in the 33988
fund to pay the agency's costs associated with administering and 33989
enforcing, or otherwise conducting activities under, this chapter 33990
and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 33991
3752., 3753., 5709., 6101., 6103., 6105., 6109., 6111., 6112., 33992
6113., 6115., 6117., and 6119. and sections 122.65 and 1521.19 of 33993
the Revised Code. 33994

Sec. 3745.11. (A) Applicants for and holders of permits, 33995
licenses, variances, plan approvals, and certifications issued by 33996
the director of environmental protection pursuant to Chapters 33997

3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 33998
to the environmental protection agency for each such issuance and 33999
each application for an issuance as provided by this section. No 34000
fee shall be charged for any issuance for which no application has 34001
been submitted to the director. 34002

(B) Each person who is issued a permit to install prior to 34003
July 1, 2003, pursuant to rules adopted under division (F) of 34004
section 3704.03 of the Revised Code shall pay the fees specified 34005
in the following schedules: 34006

(1) ~~Fuel-Burning Equipment~~ Fuel-burning equipment (boilers) 34007
Input capacity (maximum) 34008
(million British thermal units per hour) Permit to install 34009
Greater than 0, but less than 10 \$ 200 34010
10 or more, but less than 100 400 34011
100 or more, but less than 300 800 34012
300 or more, but less than 500 1500 34013
500 or more, but less than 1000 2500 34014
1000 or more, but less than 5000 4000 34015
5000 or more 6000 34016

Units burning exclusively natural gas, number two fuel oil, 34017
or both shall be assessed a fee that is one-half of the applicable 34018
amount established in division (F)(1) of this section. 34019

(2) Incinerators 34020
Input capacity (pounds per hour) Permit to install 34021
0 to 100 \$ 100 34022
101 to 500 400 34023
501 to 2000 750 34024
2001 to 20,000 1000 34025
more than 20,000 2500 34026

(3)(a) Process 34027
Process weight rate (pounds per hour) Permit to install 34028

0 to 1000	\$ 200	34029
1001 to 5000	400	34030
5001 to 10,000	600	34031
10,001 to 50,000	800	34032
more than 50,000	1000	34033

In any process where process weight rate cannot be 34034
ascertained, the minimum fee shall be assessed. 34035

(b) Notwithstanding division (B)(3)(a) of this section, any 34036
person issued a permit to install pursuant to rules adopted under 34037
division (F) of section 3704.03 of the Revised Code shall pay the 34038
fees established in division (B)(3)(c) of this section for a 34039
process used in any of the following industries, as identified by 34040
the applicable four-digit standard industrial classification code 34041
according to the Standard Industrial Classification Manual 34042
published by the United States office of management and budget in 34043
the executive office of the president, 1972, as revised: 34044

1211 Bituminous coal and lignite mining; 34045

1213 Bituminous coal and lignite mining services; 34046

1411 Dimension stone; 34047

1422 Crushed and broken limestone; 34048

1427 Crushed and broken stone, not elsewhere classified; 34049

1442 Construction sand and gravel; 34050

1446 Industrial sand; 34051

3281 Cut stone and stone products; 34052

3295 Minerals and earth, ground or otherwise treated. 34053

(c) The fees established in the following schedule apply to 34054
the issuance of a permit to install pursuant to rules adopted 34055
under division (F) of section 3704.03 of the Revised Code for a 34056
process listed in division (B)(3)(b) of this section: 34057

Process weight rate (pounds per hour)	Permit to install	34058
0 to 1000	\$ 200	34059
10,001 to 50,000	300	34060
50,001 to 100,000	400	34061
100,001 to 200,000	500	34062
200,001 to 400,000	600	34063
400,001 or more	700	34064
(4) Storage tanks		34065
Gallons (maximum useful capacity)	Permit to install	34066
0 to 20,000	\$ 100	34067
20,001 to 40,000	150	34068
40,001 to 100,000	200	34069
100,001 to 250,000	250	34070
250,001 to 500,000	350	34071
500,001 to 1,000,000	500	34072
1,000,001 or greater	750	34073
(5) Gasoline/fuel dispensing facilities		34074
For each gasoline/fuel dispensing facility	Permit to install	34075
	\$ 100	34076
(6) Dry cleaning facilities		34077
For each dry cleaning facility	Permit to install	34078
(includes all units at the facility)	\$ 100	34079
(7) Registration status		34080
For each source covered by registration status	Permit to install	34081
	\$ 75	34082
(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		34083 34084 34085 34086 34087 34088

of air contaminants may be calculated using engineering 34089
calculations, emissions factors, material balance calculations, or 34090
performance testing procedures, as authorized by the director. 34091

The following fees shall be assessed on the total actual 34092
emissions from a source in tons per year of the regulated 34093
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 34094
organic compounds, and lead: 34095

(a) Fifteen dollars per ton on the total actual emissions of 34096
each such regulated pollutant during the period July through 34097
December 1993, to be collected no sooner than July 1, 1994; 34098

(b) Twenty dollars per ton on the total actual emissions of 34099
each such regulated pollutant during calendar year 1994, to be 34100
collected no sooner than April 15, 1995; 34101

(c) Twenty-five dollars per ton on the total actual emissions 34102
of each such regulated pollutant in calendar year 1995, and each 34103
subsequent calendar year, to be collected no sooner than the 34104
fifteenth day of April of the year next succeeding the calendar 34105
year in which the emissions occurred. 34106

The fees levied under division (C)(1) of this section do not 34107
apply to that portion of the emissions of a regulated pollutant at 34108
a facility that exceed four thousand tons during a calendar year. 34109

(2) The fees assessed under division (C)(1) of this section 34110
are for the purpose of providing funding for the Title V permit 34111
program. 34112

(3) The fees assessed under division (C)(1) of this section 34113
do not apply to emissions from any electric generating unit 34114
designated as a Phase I unit under Title IV of the federal Clean 34115
Air Act prior to calendar year 2000. Those fees shall be assessed 34116
on the emissions from such a generating unit commencing in 34117
calendar year 2001 based upon the total actual emissions from the 34118

generating unit during calendar year 2000 and shall continue to be 34119
assessed each subsequent calendar year based on the total actual 34120
emissions from the generating unit during the preceding calendar 34121
year. 34122

(4) The director shall issue invoices to owners or operators 34123
of air contaminant sources who are required to pay a fee assessed 34124
under division (C) or (D) of this section. Any such invoice shall 34125
be issued no sooner than the applicable date when the fee first 34126
may be collected in a year under the applicable division, shall 34127
identify the nature and amount of the fee assessed, and shall 34128
indicate that the fee is required to be paid within thirty days 34129
after the issuance of the invoice. 34130

(D)(1) Except as provided in division (D)(3) of this section, 34131
from January 1, 1994, through December 31, 2003, each person who 34132
owns or operates an air contaminant source; who is required to 34133
apply for a permit to operate pursuant to rules adopted under 34134
division (G), or a variance pursuant to division (H), of section 34135
3704.03 of the Revised Code; and who is not required to apply for 34136
and obtain a Title V permit under section 3704.036 of the Revised 34137
Code shall pay a single fee based upon the sum of the actual 34138
annual emissions from the facility of the regulated pollutants 34139
particulate matter, sulfur dioxide, nitrogen oxides, organic 34140
compounds, and lead in accordance with the following schedule: 34141

Total tons per year 34142		
of regulated pollutants 34143	Annual fee	
emitted 34144	per facility	
More than 0, but less than 50 34145	\$ 75	
50 or more, but less than 100 34146	300	
100 or more 34147	700	

(2) Except as provided in division (D)(3) of this section, 34148
beginning January 1, 2004, each person who owns or operates an air 34149
contaminant source; who is required to apply for a permit to 34150

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	34159
10 or more, but less than 50	200	34160
50 or more, but less than 100	300	34161
100 or more	700	34162

(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	34178

10 or more, but less than 20	340	34183
20 or more, but less than 30	670	34184
30 or more, but less than 40	1,010	34185
40 or more, but less than 50	1,340	34186
50 or more, but less than 60	1,680	34187
60 or more, but less than 70	2,010	34188
70 or more, but less than 80	2,350	34189
80 or more, but less than 90	2,680	34190
90 or more, but less than 100	3,020	34191
100 or more	3,350	34192

(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 under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (C)(1) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year

exceeds the consumer price index for calendar year 1989. Upon
calculating an increase in fees authorized by division (E)(1) of
this section, the director shall compile revised fee schedules for
the purposes of division (C)(1) of this section and shall make the
revised schedules available to persons required to pay the fees
assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of
the consumer price index for all urban consumers published by the
United States department of labor as of the close of the
twelve-month period ending on the thirty-first day of August of
that year.

(b) If the 1989 consumer price index is revised, the director
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, 34246
or both shall be assessed a fee that is one-half the applicable 34247
amount shown in division (F)(1) of this section. 34248

(2) Combustion turbines and stationary internal combustion 34249
engines designed to generate electricity 34250

Generating capacity (mega watts)	Permit to install	
0 or more, but less than 10	\$ 25	34252
10 or more, but less than 25	150	34253
25 or more, but less than 50	300	34254
50 or more, but less than 100	500	34255
100 or more, but less than 250	1000	34256
250 or more	2000	34257

(3) Incinerators 34258

Input capacity (pounds per hour)	Permit to install	
0 to 100	\$ 100	34260
101 to 500	500	34261
501 to 2000	1000	34262
2001 to 20,000	1500	34263
more than 20,000	3750	34264

(4)(a) Process 34265

Process weight rate (pounds per hour)	Permit to install	
0 to 1000	\$ 200	34267
1001 to 5000	500	34268
5001 to 10,000	750	34269
10,001 to 50,000	1000	34270
more than 50,000	1250	34271

In any process where process weight rate cannot be 34272
ascertained, the minimum fee shall be assessed. A boiler, furnace, 34273
combustion turbine, stationary internal combustion engine, or 34274
process heater designed to provide direct heat or power to a 34275
process not designed to generate electricity shall be assessed a 34276

fee established in division (F)(4)(a) of this section. A 34277
combustion turbine or stationary internal combustion engine 34278
designed to generate electricity shall be assessed a fee 34279
established in division (F)(2) of this section. 34280

(b) Notwithstanding division (F)~~(3)~~(4)(a) of this section, 34281
any person issued a permit to install pursuant to rules adopted 34282
under division (F) of section 3704.03 of the Revised Code shall 34283
pay the fees set forth in division (F)~~(3)~~(4)(c) of this section 34284
for a process used in any of the following industries, as 34285
identified by the applicable two-digit, three-digit, or four-digit 34286
standard industrial classification code according to the Standard 34287
Industrial Classification Manual published by the United States 34288
office of management and budget in the executive office of the 34289
president, ~~1972~~ 1987, as revised: 34290

~~1211 Bituminous coal and lignite mining;~~ 34291

~~1213 Bituminous coal and lignite mining services;~~ 34292

~~1411 Dimension stone;~~ 34293

~~1422 Crushed and broken limestone;~~ 34294

~~1427 Crushed and broken stone, not elsewhere classified;~~ 34295

~~1442 Construction sand and gravel;~~ 34296

~~1446 Industrial sand;~~ Major group 10, metal mining; 34297

Major group 12, coal mining; 34298

Major group 14, mining and quarrying of nonmetallic minerals; 34299

Industry group 204, grain mill products; 34300

2873 Nitrogen fertilizers; 34301

2874 Phosphatic fertilizers; 34302

3281 Cut stone and stone products; 34303

3295 Minerals and earth, ground or otherwise treated; 34304

<u>4221 Grain elevators (storage only);</u>		34305
<u>5159 Farm related raw materials;</u>		34306
<u>5261 Retail nurseries and lawn and garden supply stores.</u>		34307
(c) The fees set forth in the following schedule apply to the		34308
issuance of a permit to install pursuant to rules adopted under		34309
division (F) of section 3704.03 of the Revised Code for a process		34310
identified in division (F) (3) (4)(b) of this section:		34311
Process weight rate (pounds per	Permit to install	34312
hour)		
0 to 10,000	\$ 200	34313
10,001 to 50,000	400	34314
50,001 to 100,000	500	34315
100,001 to 200,000	600	34316
200,001 to 400,000	750	34317
400,001 or more	900	34318
(5) Storage tanks		34319
Gallons (maximum useful capacity)	Permit to install	34320
0 to 20,000	\$ 100	34321
20,001 to 40,000	150	34322
40,001 to 100,000	250	34323
100,001 to 500,000	400	34324
500,001 or greater	750	34325
(6) Gasoline/fuel dispensing facilities		34326
For each gasoline/fuel		34327
dispensing facility (includes all	Permit to install	34328
units at the facility)	\$ 100	34329
(7) Dry cleaning facilities		34330
For each dry cleaning		34331
facility (includes all units	Permit to install	34332
at the facility)	\$ 100	34333

(8) Registration status		34334
For each source covered	Permit to install	34335
by registration status	\$ 75	34336
(G) An owner or operator who is responsible for an asbestos		34337
demolition or renovation project pursuant to rules adopted under		34338
section 3704.03 of the Revised Code shall pay the fees set forth		34339
in the following schedule:		34340
Action	Fee	34341
Each notification	\$75	34342
Asbestos removal	\$3/unit	34343
Asbestos cleanup	\$4/cubic yard	34344
For purposes of this division, "unit" means any combination of		34345
linear feet or square feet equal to fifty.		34346
(H) A person who is issued an extension of time for a permit		34347
to install an air contaminant source pursuant to rules adopted		34348
under division (F) of section 3704.03 of the Revised Code shall		34349
pay a fee equal to one-half the fee originally assessed for the		34350
permit to install under this section, except that the fee for such		34351
an extension shall not exceed two hundred dollars.		34352
(I) A person who is issued a modification to a permit to		34353
install an air contaminant source pursuant to rules adopted under		34354
section 3704.03 of the Revised Code shall pay a fee equal to		34355
one-half of the fee that would be assessed under this section to		34356
obtain a permit to install the source. The fee assessed by this		34357
division only applies to modifications that are initiated by the		34358
owner or operator of the source and shall not exceed two thousand		34359
dollars.		34360
(J) Notwithstanding division (B) or (F) of this section, a		34361
person who applies for or obtains a permit to install pursuant to		34362
rules adopted under division (F) of section 3704.03 of the Revised		34363
Code after the date actual construction of the source began shall		34364

pay a fee for the permit to install that is equal to twice the fee 34365
that otherwise would be assessed under the applicable division 34366
unless the applicant received authorization to begin construction 34367
under division (W) of section 3704.03 of the Revised Code. This 34368
division only applies to sources for which actual construction of 34369
the source begins on or after July 1, 1993. The imposition or 34370
payment of the fee established in this division does not preclude 34371
the director from taking any administrative or judicial 34372
enforcement action under this chapter, Chapter 3704., 3714., 34373
3734., or 6111. of the Revised Code, or a rule adopted under any 34374
of them, in connection with a violation of rules adopted under 34375
division (F) of section 3704.03 of the Revised Code. 34376

As used in this division, "actual construction of the source" 34377
means the initiation of physical on-site construction activities 34378
in connection with improvements to the source that are permanent 34379
in nature, including, without limitation, the installation of 34380
building supports and foundations and the laying of underground 34381
pipework. 34382

(K) Fifty cents per ton of each fee assessed under division 34383
(C) of this section on actual emissions from a source and received 34384
by the environmental protection agency pursuant to that division 34385
shall be deposited into the state treasury to the credit of the 34386
small business assistance fund created in section 3706.19 of the 34387
Revised Code. The remainder of the moneys received by the division 34388
pursuant to that division and moneys received by the agency 34389
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 34390
section shall be deposited in the state treasury to the credit of 34391
the clean air fund created in section 3704.035 of the Revised 34392
Code. 34393

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 34394
or (c) of this section, a person issued a water discharge permit 34395
or renewal of a water discharge permit pursuant to Chapter 6111. 34396

of the Revised Code shall pay a fee based on each point source to which the issuance is applicable in accordance with the following schedule:

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	34400
1,001 to 5000	100	34401
5,001 to 50,000	200	34402
50,001 to 100,000	300	34403
100,001 to 300,000	525	34404
over 300,000	750	34405

(b) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit that is applicable to coal mining operations regulated under Chapter 1513. of the Revised Code shall be two hundred fifty dollars per mine.

(c) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit for a public discharger identified by I in the third character of the permittee's NPDES permit number shall not exceed seven hundred fifty dollars.

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~2006~~ 2008, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~2006~~ 2008, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~2006~~ 2008, and five thousand dollars on and after July 1, ~~2006~~ 2008. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge

permit shall pay a fee equal to one-half the fee that otherwise 34428
would be charged for a water discharge permit, except that the fee 34429
for the modification shall not exceed four hundred dollars. 34430

(4) A person who has entered into an agreement with the 34431
director under section 6111.14 of the Revised Code shall pay an 34432
administrative service fee for each plan submitted under that 34433
section for approval that shall not exceed the minimum amount 34434
necessary to pay administrative costs directly attributable to 34435
processing plan approvals. The director annually shall calculate 34436
the fee and shall notify all persons who have entered into 34437
agreements under that section, or who have applied for agreements, 34438
of the amount of the fee. 34439

(5)(a)(i) Not later than January 30, ~~2004~~ 2006, and January 34440
30, ~~2005~~ 2007, a person holding an NPDES discharge permit issued 34441
pursuant to Chapter 6111. of the Revised Code with an average 34442
daily discharge flow of five thousand gallons or more shall pay a 34443
nonrefundable annual discharge fee. Any person who fails to pay 34444
the fee at that time shall pay an additional amount that equals 34445
ten per cent of the required annual discharge fee. 34446

(ii) The billing year for the annual discharge fee 34447
established in division (L)(5)(a)(i) of this section shall consist 34448
of a twelve-month period beginning on the first day of January of 34449
the year preceding the date when the annual discharge fee is due. 34450
In the case of an existing source that permanently ceases to 34451
discharge during a billing year, the director shall reduce the 34452
annual discharge fee, including the surcharge applicable to 34453
certain industrial facilities pursuant to division (L)(5)(c) of 34454
this section, by one-twelfth for each full month during the 34455
billing year that the source was not discharging, but only if the 34456
person holding the NPDES discharge permit for the source notifies 34457
the director in writing, not later than the first day of October 34458
of the billing year, of the circumstances causing the cessation of 34459

discharge. 34460

(iii) The annual discharge fee established in division 34461
(L)(5)(a)(i) of this section, except for the surcharge applicable 34462
to certain industrial facilities pursuant to division (L)(5)(c) of 34463
this section, shall be based upon the average daily discharge flow 34464
in gallons per day calculated using first day of May through 34465
thirty-first day of October flow data for the period two years 34466
prior to the date on which the fee is due. In the case of NPDES 34467
discharge permits for new sources, the fee shall be calculated 34468
using the average daily design flow of the facility until actual 34469
average daily discharge flow values are available for the time 34470
period specified in division (L)(5)(a)(iii) of this section. The 34471
annual discharge fee may be prorated for a new source as described 34472
in division (L)(5)(a)(ii) of this section. 34473

(b) An NPDES permit holder that is a public discharger shall 34474
pay the fee specified in the following schedule: 34475

Average daily	Fee due by	
discharge flow	January 30,	
	2004 <u>2006</u> , and	
	January 30, 2005	
	<u>2007</u>	
5,000 to 49,999	\$ 200	34480
50,000 to 100,000	500	34481
100,001 to 250,000	1,050	34482
250,001 to 1,000,000	2,600	34483
1,000,001 to 5,000,000	5,200	34484
5,000,001 to 10,000,000	10,350	34485
10,000,001 to 20,000,000	15,550	34486
20,000,001 to 50,000,000	25,900	34487
50,000,001 to 100,000,000	41,400	34488
100,000,001 or more	62,100	34489

Public dischargers owning or operating two or more publicly 34490

owned treatment works serving the same political subdivision, as 34491
 "treatment works" is defined in section 6111.01 of the Revised 34492
 Code, and that serve exclusively political subdivisions having a 34493
 population of fewer than one hundred thousand shall pay an annual 34494
 discharge fee under division (L)(5)(b) of this section that is 34495
 based on the combined average daily discharge flow of the 34496
 treatment works. 34497

(c) An NPDES permit holder that is an industrial discharger, 34498
 other than a coal mining operator identified by P in the third 34499
 character of the permittee's NPDES permit number, shall pay the 34500
 fee specified in the following schedule: 34501

Average daily	Fee due by	
discharge flow	January 30,	
	2004 <u>2006</u> , and	
	January 30, 2005	
	<u>2007</u>	
5,000 to 49,999	\$ 250	34506
50,000 to 250,000	1,200	34507
250,001 to 1,000,000	2,950	34508
1,000,001 to 5,000,000	5,850	34509
5,000,001 to 10,000,000	8,800	34510
10,000,001 to 20,000,000	11,700	34511
20,000,001 to 100,000,000	14,050	34512
100,000,001 to 250,000,000	16,400	34513
250,000,001 or more	18,700	34514

In addition to the fee specified in the above schedule, an 34515
 NPDES permit holder that is an industrial discharger classified as 34516
 a major discharger during all or part of the annual discharge fee 34517
 billing year specified in division (L)(5)(a)(ii) of this section 34518
 shall pay a nonrefundable annual surcharge of seven thousand five 34519
 hundred dollars not later than January 30, ~~2004~~ 2006, and not 34520
 later than January 30, ~~2005~~ 2007. Any person who fails to pay the 34521

surcharge at that time shall pay an additional amount that equals 34522
ten per cent of the amount of the surcharge. 34523

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 34524
section, a public discharger identified by I in the third 34525
character of the permittee's NPDES permit number and an industrial 34526
discharger identified by I, J, L, V, W, X, Y, or Z in the third 34527
character of the permittee's NPDES permit number shall pay a 34528
nonrefundable annual discharge fee of one hundred eighty dollars 34529
not later than January 30, ~~2004~~ 2006, and not later than January 34530
30, ~~2005~~ 2007. Any person who fails to pay the fee at that time 34531
shall pay an additional amount that equals ten per cent of the 34532
required fee. 34533

(6) Each person obtaining a national pollutant discharge 34534
elimination system general or individual permit for municipal 34535
storm water discharge shall pay a nonrefundable storm water 34536
discharge fee of one hundred dollars per square mile of area 34537
permitted. The fee shall not exceed ten thousand dollars and shall 34538
be payable on or before January 30, 2004, and the thirtieth day of 34539
January of each year thereafter. Any person who fails to pay the 34540
fee on the date specified in division (L)(6) of this section shall 34541
pay an additional amount per year equal to ten per cent of the 34542
annual fee that is unpaid. 34543

(7) The director shall transmit all moneys collected under 34544
division (L) of this section to the treasurer of state for deposit 34545
into the state treasury to the credit of the surface water 34546
protection fund created in section 6111.038 of the Revised Code. 34547

(8) As used in division (L) of this section: 34548

(a) "NPDES" means the federally approved national pollutant 34549
discharge elimination system program for issuing, modifying, 34550
revoking, reissuing, terminating, monitoring, and enforcing 34551
permits and imposing and enforcing pretreatment requirements under 34552

Chapter 6111. of the Revised Code and rules adopted under it. 34553

(b) "Public discharger" means any holder of an NPDES permit 34554
identified by P in the second character of the NPDES permit number 34555
assigned by the director. 34556

(c) "Industrial discharger" means any holder of an NPDES 34557
permit identified by I in the second character of the NPDES permit 34558
number assigned by the director. 34559

(d) "Major discharger" means any holder of an NPDES permit 34560
classified as major by the regional administrator of the United 34561
States environmental protection agency in conjunction with the 34562
director. 34563

(M) Through June 30, ~~2006~~ 2008, a person applying for a 34564
license or license renewal to operate a public water system under 34565
section 6109.21 of the Revised Code shall pay the appropriate fee 34566
established under this division at the time of application to the 34567
director. Any person who fails to pay the fee at that time shall 34568
pay an additional amount that equals ten per cent of the required 34569
fee. The director shall transmit all moneys collected under this 34570
division to the treasurer of state for deposit into the drinking 34571
water protection fund created in section 6109.30 of the Revised 34572
Code. 34573

Except as provided in division (M)(4) of this section, fees 34574
required under this division shall be calculated and paid in 34575
accordance with the following schedule: 34576

(1) For the initial license required under division (A)(1) of 34577
section 6109.21 of the Revised Code for any public water system 34578
that is a community water system as defined in section 6109.01 of 34579
the Revised Code, and for each license renewal required for such a 34580
system prior to January 31, ~~2006~~ 2008, the fee is: 34581

Number of service connections	Fee amount	
Not more than 49	\$ 112	34583

50 to 99	176	34584
Number of service connections	Average cost per connection	34585
100 to 2,499	\$ 1.92	34586
2,500 to 4,999	1.48	34587
5,000 to 7,499	1.42	34588
7,500 to 9,999	1.34	34589
10,000 to 14,999	1.16	34590
15,000 to 24,999	1.10	34591
25,000 to 49,999	1.04	34592
50,000 to 99,999	.92	34593
100,000 to 149,999	.86	34594
150,000 to 199,999	.80	34595
200,000 or more	.76	34596

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2006~~ 2008, the fee is:

Population served	Fee amount	
Fewer than 150	\$ 112	34610
150 to 299	176	34611
300 to 749	384	34612
750 to 1,499	628	34613
1,500 to 2,999	1,268	34614

3,000 to 7,499	2,816	34616
7,500 to 14,999	5,510	34617
15,000 to 22,499	9,048	34618
22,500 to 29,999	12,430	34619
30,000 or more	16,820	34620

As used in division (M)(2) of this section, "population served" means the total number of individuals receiving water from the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2006~~ 2008, the fee is:

Number of wells supplying system	Fee amount	
1	\$112	34633
2	112	34634
3	176	34635
4	278	34636
5	568	34637
System designated as using a surface water source	792	34639

As used in division (M)(3) of this section, "number of wells supplying system" means those wells that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, ~~2006~~ 2008, and fifteen thousand dollars on and after July 1, ~~2006~~ 2008. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, ~~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		34670
MMO-MUG	\$2,000	34671
MF	2,100	34672
MMO-MUG and MF	2,550	34673
organic chemical	5,400	34674
trace metals	5,400	34675
standard chemistry	2,800	34676
limited chemistry	1,550	34677

On and after July 1, ~~2006~~ 2008, the following fee, on a per

survey basis, shall be charged any such person:		34679
microbiological	\$ 1,650	34680
organic chemicals	3,500	34681
trace metals	3,500	34682
standard chemistry	1,800	34683
limited chemistry	1,000	34684

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:

(a) "MF" means microfiltration.

(b) "MMO" means minimal medium ONPG.

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this
division to the treasurer of state for deposit into the drinking
water protection fund created in section 6109.30 of the Revised
Code.

~~(O) Any person applying to the director for examination for
certification as an operator of a water supply system or
wastewater system under Chapter 6109. or 6111. of the Revised
Code, at the time the application is submitted, shall pay an
application fee of twenty five dollars through November 30, 2003.
Upon approval from the director that the applicant is eligible to
take the examination therefor, the applicant shall pay a fee in
accordance with the following schedule through November 30, 2003:~~

Class I operator	\$45	34709
Class II operator	55	34710
Class III operator	65	34711
Class IV operator	75	34712

~~On and after December 1, 2003,~~ any person applying to the 34713
director for examination for certification as an operator of a 34714
water supply system or wastewater system under Chapter 6109. or 34715
6111. of the Revised Code, at the time the application is 34716
submitted, shall pay an application fee of forty-five dollars 34717
through November 30, ~~2006~~ 2008, and twenty-five dollars on and 34718
after December 1, ~~2006~~ 2008. Upon approval from the director that 34719
the applicant is eligible to take the examination therefor, the 34720
applicant shall pay a fee in accordance with the following 34721
schedule through November 30, ~~2006~~ 2008: 34722

Class A operator	\$35	34723
Class I operator	60	34724
Class II operator	75	34725
Class III operator	85	34726
Class IV operator	100	34727

On and after December 1, ~~2006~~ 2008, the applicant shall pay a 34728
fee in accordance with the following schedule: 34729

Class A operator	\$25	34730
Class I operator	\$45	34731
Class II operator	55	34732
Class III operator	65	34733
Class IV operator	75	34734

A person shall pay a biennial certification renewal fee for 34735
each applicable class of certification in accordance with the 34736
following schedule: 34737

Class A operator	\$25	34738
Class I operator	35	34739
Class II operator	45	34740

Class III operator	55	34741
Class IV operator	65	34742

If a certification renewal fee is received by the director 34743
more than thirty days, but not more than one year after the 34744
expiration date of the certification, the person shall pay a 34745
certification renewal fee in accordance with the following 34746
schedule: 34747

Class A operator	\$45	34748
Class I operator	55	34749
Class II operator	65	34750
Class III operator	75	34751
Class IV operator	85	34752

A person who requests a replacement certificate shall pay a 34753
fee of twenty-five dollars at the time the request is made. 34754

The director shall transmit all moneys collected under this 34755
division to the treasurer of state for deposit into the drinking 34756
water protection fund created in section 6109.30 of the Revised 34757
Code. 34758

(P) Any person submitting an application for an industrial 34759
water pollution control certificate under section 6111.31 of the 34760
Revised Code, as that section existed before its repeal by H.B. 95 34761
of the 125th general assembly, shall pay a nonrefundable fee of 34762
five hundred dollars at the time the application is submitted. The 34763
director shall transmit all moneys collected under this division 34764
to the treasurer of state for deposit into the surface water 34765
protection fund created in section 6111.038 of the Revised Code. A 34766
person paying a certificate fee under this division shall not pay 34767
an application fee under division (S)(1) of this section. On and 34768
after ~~the effective date of this amendment~~ June 26, 2003, persons 34769
shall file such applications and pay the fee as required under 34770
sections 5709.20 to 5709.27 of the Revised Code, and proceeds from 34771
the fee shall be credited as provided in section 5709.212 of the 34772

Revised Code. 34773

(Q) Except as otherwise provided in division (R) of this 34774
section, a person issued a permit by the director for a new solid 34775
waste disposal facility other than an incineration or composting 34776
facility, a new infectious waste treatment facility other than an 34777
incineration facility, or a modification of such an existing 34778
facility that includes an increase in the total disposal or 34779
treatment capacity of the facility pursuant to Chapter 3734. of 34780
the Revised Code shall pay a fee of ten dollars per thousand cubic 34781
yards of disposal or treatment capacity, or one thousand dollars, 34782
whichever is greater, except that the total fee for any such 34783
permit shall not exceed eighty thousand dollars. A person issued a 34784
modification of a permit for a solid waste disposal facility or an 34785
infectious waste treatment facility that does not involve an 34786
increase in the total disposal or treatment capacity of the 34787
facility shall pay a fee of one thousand dollars. A person issued 34788
a permit to install a new, or modify an existing, solid waste 34789
transfer facility under that chapter shall pay a fee of two 34790
thousand five hundred dollars. A person issued a permit to install 34791
a new or to modify an existing solid waste incineration or 34792
composting facility, or an existing infectious waste treatment 34793
facility using incineration as its principal method of treatment, 34794
under that chapter shall pay a fee of one thousand dollars. The 34795
increases in the permit fees under this division resulting from 34796
the amendments made by Amended Substitute House Bill 592 of the 34797
117th general assembly do not apply to any person who submitted an 34798
application for a permit to install a new, or modify an existing, 34799
solid waste disposal facility under that chapter prior to 34800
September 1, 1987; any such person shall pay the permit fee 34801
established in this division as it existed prior to June 24, 1988. 34802
In addition to the applicable permit fee under this division, a 34803
person issued a permit to install or modify a solid waste facility 34804
or an infectious waste treatment facility under that chapter who 34805

fails to pay the permit fee to the director in compliance with 34806
division (V) of this section shall pay an additional ten per cent 34807
of the amount of the fee for each week that the permit fee is 34808
late. 34809

Permit and late payment fees paid to the director under this 34810
division shall be credited to the general revenue fund. 34811

(R)(1) A person issued a registration certificate for a scrap 34812
tire collection facility under section 3734.75 of the Revised Code 34813
shall pay a fee of two hundred dollars, except that if the 34814
facility is owned or operated by a motor vehicle salvage dealer 34815
licensed under Chapter 4738. of the Revised Code, the person shall 34816
pay a fee of twenty-five dollars. 34817

(2) A person issued a registration certificate for a new 34818
scrap tire storage facility under section 3734.76 of the Revised 34819
Code shall pay a fee of three hundred dollars, except that if the 34820
facility is owned or operated by a motor vehicle salvage dealer 34821
licensed under Chapter 4738. of the Revised Code, the person shall 34822
pay a fee of twenty-five dollars. 34823

(3) A person issued a permit for a scrap tire storage 34824
facility under section 3734.76 of the Revised Code shall pay a fee 34825
of one thousand dollars, except that if the facility is owned or 34826
operated by a motor vehicle salvage dealer licensed under Chapter 34827
4738. of the Revised Code, the person shall pay a fee of fifty 34828
dollars. 34829

(4) A person issued a permit for a scrap tire monocell or 34830
monofill facility under section 3734.77 of the Revised Code shall 34831
pay a fee of ten dollars per thousand cubic yards of disposal 34832
capacity or one thousand dollars, whichever is greater, except 34833
that the total fee for any such permit shall not exceed eighty 34834
thousand dollars. 34835

(5) A person issued a registration certificate for a scrap 34836

tire recovery facility under section 3734.78 of the Revised Code 34837
shall pay a fee of one hundred dollars. 34838

(6) A person issued a permit for a scrap tire recovery 34839
facility under section 3734.78 of the Revised Code shall pay a fee 34840
of one thousand dollars. 34841

(7) In addition to the applicable registration certificate or 34842
permit fee under divisions (R)(1) to (6) of this section, a person 34843
issued a registration certificate or permit for any such scrap 34844
tire facility who fails to pay the registration certificate or 34845
permit fee to the director in compliance with division (V) of this 34846
section shall pay an additional ten per cent of the amount of the 34847
fee for each week that the fee is late. 34848

(8) The registration certificate, permit, and late payment 34849
fees paid to the director under divisions (R)(1) to (7) of this 34850
section shall be credited to the scrap tire management fund 34851
created in section 3734.82 of the Revised Code. 34852

(S)(1) Except as provided by divisions (L), (M), (N), (O), 34853
(P), and (S)(2) of this section, division (A)(2) of section 34854
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 34855
and rules adopted under division (T)(1) of this section, any 34856
person applying for a registration certificate under section 34857
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 34858
variance, or plan approval under Chapter 3734. of the Revised Code 34859
shall pay a nonrefundable fee of fifteen dollars at the time the 34860
application is submitted. 34861

Except as otherwise provided, any person applying for a 34862
permit, variance, or plan approval under Chapter 6109. or 6111. of 34863
the Revised Code shall pay a nonrefundable fee of one hundred 34864
dollars at the time the application is submitted through June 30, 34865
~~2006~~ 2008, and a nonrefundable fee of fifteen dollars at the time 34866
the application is submitted on and after July 1, ~~2006~~ 2008. 34867

Through June 30, ~~2006~~ 2008, any person applying for a national 34868
pollutant discharge elimination system permit under Chapter 6111. 34869
of the Revised Code shall pay a nonrefundable fee of two hundred 34870
dollars at the time of application for the permit. On and after 34871
July 1, ~~2006~~ 2008, such a person shall pay a nonrefundable fee of 34872
fifteen dollars at the time of application. 34873

In addition to the application fee established under division 34874
(S)(1) of this section, any person applying for a national 34875
pollutant discharge elimination system general storm water 34876
construction permit shall pay a nonrefundable fee of twenty 34877
dollars per acre for each acre that is permitted above five acres 34878
at the time the application is submitted. However, the per acreage 34879
fee shall not exceed three hundred dollars. In addition, any 34880
person applying for a national pollutant discharge elimination 34881
system general storm water industrial permit shall pay a 34882
nonrefundable fee of one hundred fifty dollars at the time the 34883
application is submitted. 34884

The director shall transmit all moneys collected under 34885
division (S)(1) of this section pursuant to Chapter 6109. of the 34886
Revised Code to the treasurer of state for deposit into the 34887
drinking water protection fund created in section 6109.30 of the 34888
Revised Code. 34889

The director shall transmit all moneys collected under 34890
division (S)(1) of this section pursuant to Chapter 6111. of the 34891
Revised Code to the treasurer of state for deposit into the 34892
surface water protection fund created in section 6111.038 of the 34893
Revised Code. 34894

If a registration certificate is issued under section 34895
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 34896
the application fee paid shall be deducted from the amount of the 34897
registration certificate fee due under division (R)(1), (2), or 34898
(5) of this section, as applicable. 34899

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 collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(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 34931
of the Revised Code. 34932

The director shall transmit all moneys collected under rules 34933
adopted under division (T)(1) of this section pursuant to Chapter 34934
6111. of the Revised Code to the treasurer of state for deposit 34935
into the surface water protection fund created in section 6111.038 34936
of the Revised Code. 34937

(2) Exempt the state and political subdivisions thereof, 34938
including education facilities or medical facilities owned by the 34939
state or a political subdivision, or any person exempted from 34940
taxation by section 5709.07 or 5709.12 of the Revised Code, from 34941
any fee required by this section; 34942

(3) Provide for the waiver of any fee, or any part thereof, 34943
otherwise required by this section whenever the director 34944
determines that the imposition of the fee would constitute an 34945
unreasonable cost of doing business for any applicant, class of 34946
applicants, or other person subject to the fee; 34947

(4) Prescribe measures that the director considers necessary 34948
to carry out this section. 34949

(U) When the director reasonably demonstrates that the direct 34950
cost to the state associated with the issuance of a permit to 34951
install, license, variance, plan approval, or certification 34952
exceeds the fee for the issuance or review specified by this 34953
section, the director may condition the issuance or review on the 34954
payment by the person receiving the issuance or review of, in 34955
addition to the fee specified by this section, the amount, or any 34956
portion thereof, in excess of the fee specified under this 34957
section. The director shall not so condition issuances for which 34958
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 34959
section. 34960

(V) Except as provided in divisions (L), (M), and (P) of this 34961

section or unless otherwise prescribed by a rule of the director 34962
adopted pursuant to Chapter 119. of the Revised Code, all fees 34963
required by this section are payable within thirty days after the 34964
issuance of an invoice for the fee by the director or the 34965
effective date of the issuance of the license, permit, variance, 34966
plan approval, or certification. If payment is late, the person 34967
responsible for payment of the fee shall pay an additional ten per 34968
cent of the amount due for each month that it is late. 34969

(W) As used in this section, "fuel-burning equipment," 34970
"fuel-burning equipment input capacity," "incinerator," 34971
"incinerator input capacity," "process," "process weight rate," 34972
"storage tank," "gasoline dispensing facility," "dry cleaning 34973
facility," "design flow discharge," and "new source treatment 34974
works" have the meanings ascribed to those terms by applicable 34975
rules or standards adopted by the director under Chapter 3704. or 34976
6111. of the Revised Code. 34977

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 34978
and (J) of this section, and in any other provision of this 34979
section pertaining to fees paid pursuant to Chapter 3704. of the 34980
Revised Code: 34981

(1) "Facility," "federal Clean Air Act," "person," and "Title 34982
V permit" have the same meanings as in section 3704.01 of the 34983
Revised Code. 34984

(2) "Title V permit program" means the following activities 34985
as necessary to meet the requirements of Title V of the federal 34986
Clean Air Act and 40 C.F.R. part 70, including at least: 34987

(a) Preparing and adopting, if applicable, generally 34988
applicable rules or guidance regarding the permit program or its 34989
implementation or enforcement; 34990

(b) Reviewing and acting on any application for a Title V 34991
permit, permit revision, or permit renewal, including the 34992

development of an applicable requirement as part of the processing	34993
of a permit, permit revision, or permit renewal;	34994
(c) Administering the permit program, including the	34995
supporting and tracking of permit applications, compliance	34996
certification, and related data entry;	34997
(d) Determining which sources are subject to the program and	34998
implementing and enforcing the terms of any Title V permit, not	34999
including any court actions or other formal enforcement actions;	35000
(e) Emission and ambient monitoring;	35001
(f) Modeling, analyses, or demonstrations;	35002
(g) Preparing inventories and tracking emissions;	35003
(h) Providing direct and indirect support to small business	35004
stationary sources to determine and meet their obligations under	35005
the federal Clean Air Act pursuant to the small business	35006
stationary source technical and environmental compliance	35007
assistance program required by section 507 of that act and	35008
established in sections 3704.18, 3704.19, and 3706.19 of the	35009
Revised Code.	35010
(Y)(1) Except as provided in divisions (Y)(2), (3), and (4)	35011
of this section, each sewage sludge facility shall pay a	35012
nonrefundable annual sludge fee equal to three dollars and fifty	35013
cents per dry ton of sewage sludge, including the dry tons of	35014
sewage sludge in materials derived from sewage sludge, that the	35015
sewage sludge facility treats or disposes of in this state. The	35016
annual volume of sewage sludge treated or disposed of by a sewage	35017
sludge facility shall be calculated using the first day of January	35018
through the thirty-first day of December of the calendar year	35019
preceding the date on which payment of the fee is due.	35020
(2)(a) Except as provided in division (Y)(2)(d) of this	35021
section, each sewage sludge facility shall pay a minimum annual	35022

sewage sludge fee of one hundred dollars. 35023

(b) The annual sludge fee required to be paid by a sewage 35024
sludge facility that treats or disposes of exceptional quality 35025
sludge in this state shall be thirty-five per cent less per dry 35026
ton of exceptional quality sludge than the fee assessed under 35027
division (Y)(1) of this section, subject to the following 35028
exceptions: 35029

(i) Except as provided in division (Y)(2)(d) of this section, 35030
a sewage sludge facility that treats or disposes of exceptional 35031
quality sludge shall pay a minimum annual sewage sludge fee of one 35032
hundred dollars. 35033

(ii) A sewage sludge facility that treats or disposes of 35034
exceptional quality sludge shall not be required to pay the annual 35035
sludge fee for treatment or disposal in this state of exceptional 35036
quality sludge generated outside of this state and contained in 35037
bags or other containers not greater than one hundred pounds in 35038
capacity. 35039

A thirty-five per cent reduction for exceptional quality 35040
sludge applies to the maximum annual fees established under 35041
division (Y)(3) of this section. 35042

(c) A sewage sludge facility that transfers sewage sludge to 35043
another sewage sludge facility in this state for further treatment 35044
prior to disposal in this state shall not be required to pay the 35045
annual sludge fee for the tons of sewage sludge that have been 35046
transferred. In such a case, the sewage sludge facility that 35047
disposes of the sewage sludge shall pay the annual sludge fee. 35048
However, the facility transferring the sewage sludge shall pay the 35049
one-hundred-dollar minimum fee required under division (Y)(2)(a) 35050
of this section. 35051

In the case of a sewage sludge facility that treats sewage 35052
sludge in this state and transfers it out of this state to another 35053

entity for disposal, the sewage sludge facility in this state 35054
shall be required to pay the annual sludge fee for the tons of 35055
sewage sludge that have been transferred. 35056

(d) A sewage sludge facility that generates sewage sludge 35057
resulting from an average daily discharge flow of less than five 35058
thousand gallons per day is not subject to the fees assessed under 35059
division (Y) of this section. 35060

(3) No sewage sludge facility required to pay the annual 35061
sludge fee shall be required to pay more than the maximum annual 35062
fee for each disposal method that the sewage sludge facility uses. 35063
The maximum annual fee does not include the additional amount that 35064
may be charged under division (Y)(5) of this section for late 35065
payment of the annual sludge fee. The maximum annual fee for the 35066
following methods of disposal of sewage sludge is as follows: 35067

(a) Incineration: five thousand dollars; 35068

(b) Preexisting land reclamation project or disposal in a 35069
landfill: five thousand dollars; 35070

(c) Land application, land reclamation, surface disposal, or 35071
any other disposal method not specified in division (Y)(3)(a) or 35072
(b) of this section: twenty thousand dollars. 35073

(4)(a) In the case of an entity that generates sewage sludge 35074
or a sewage sludge facility that treats sewage sludge and 35075
transfers the sewage sludge to an incineration facility for 35076
disposal, the incineration facility, and not the entity generating 35077
the sewage sludge or the sewage sludge facility treating the 35078
sewage sludge, shall pay the annual sludge fee for the tons of 35079
sewage sludge that are transferred. However, the entity or 35080
facility generating or treating the sewage sludge shall pay the 35081
one-hundred-dollar minimum fee required under division (Y)(2)(a) 35082
of this section. 35083

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (Y)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the

amount of the annual sludge fee accordingly, the director shall 35115
issue with the notification a new invoice to the person 35116
identifying the amount of the annual sludge fee assessed and 35117
stating the first day of July as the deadline for payment. 35118

Not later than the first day of July, any person who is 35119
required to do so shall pay the annual sludge fee. Any person who 35120
is required to pay the fee, but who fails to do so on or before 35121
that date shall pay an additional amount that equals ten per cent 35122
of the required annual sludge fee. 35123

(6) The director shall transmit all moneys collected under 35124
division (Y) of this section to the treasurer of state for deposit 35125
into the surface water protection fund created in section 6111.038 35126
of the Revised Code. The moneys shall be used to defray the costs 35127
of administering and enforcing provisions in Chapter 6111. of the 35128
Revised Code and rules adopted under it that govern the use, 35129
storage, treatment, or disposal of sewage sludge. 35130

(7) Beginning in fiscal year 2001, and every two years 35131
thereafter, the director shall review the total amount of moneys 35132
generated by the annual sludge fees to determine if that amount 35133
exceeded six hundred thousand dollars in either of the two 35134
preceding fiscal years. If the total amount of moneys in the fund 35135
exceeded six hundred thousand dollars in either fiscal year, the 35136
director, after review of the fee structure and consultation with 35137
affected persons, shall issue an order reducing the amount of the 35138
fees levied under division (Y) of this section so that the 35139
estimated amount of moneys resulting from the fees will not exceed 35140
six hundred thousand dollars in any fiscal year. 35141

If, upon review of the fees under division (Y)(7) of this 35142
section and after the fees have been reduced, the director 35143
determines that the total amount of moneys collected and 35144
accumulated is less than six hundred thousand dollars, the 35145

director, after review of the fee structure and consultation with
affected persons, may issue an order increasing the amount of the
fees levied under division (Y) of this section so that the
estimated amount of moneys resulting from the fees will be
approximately six hundred thousand dollars. Fees shall never be
increased to an amount exceeding the amount specified in division
(Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the
director may issue an order under division (Y)(7) of this section
without the necessity to hold an adjudicatory hearing in
connection with the order. The issuance of an order under this
division is not an act or action for purposes of section 3745.04
of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs
treatment on or is responsible for the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid
residue generated during the treatment of domestic sewage in a
treatment works as defined in section 6111.01 of the Revised Code.
"Sewage sludge" includes, but is not limited to, scum or solids
removed in primary, secondary, or advanced wastewater treatment
processes. "Sewage sludge" does not include ash generated during
the firing of sewage sludge in a sewage sludge incinerator, grit
and screenings generated during preliminary treatment of domestic
sewage in a treatment works, animal manure, residue generated
during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that
meets all of the following qualifications:

(i) Satisfies the class A pathogen standards in 40 C.F.R.
503.32(a);

(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);	35176 35177
(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;	35178 35179
(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.	35180 35181
(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.	35182 35183 35184
(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.	35185 35186 35187
(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.	35188 35189 35190 35191 35192
(g) "Land reclamation" means the returning of disturbed land to productive use.	35193 35194
(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.	35195 35196 35197 35198
(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.	35199 35200 35201 35202
(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if	35203 35204 35205

they are separated by a public road or highway. 35206

(k) "Annual sludge fee" means the fee assessed under division 35207
(Y)(1) of this section. 35208

(l) "Landfill" means a sanitary landfill facility, as defined 35209
in rules adopted under section 3734.02 of the Revised Code, that 35210
is licensed under section 3734.05 of the Revised Code. 35211

(m) "Preexisting land reclamation project" means a 35212
property-specific land reclamation project that has been in 35213
continuous operation for not less than five years pursuant to 35214
approval of the activity by the director and includes the 35215
implementation of a community outreach program concerning the 35216
activity. 35217

Sec. 3745.114. (A) A person that applies for a section 401 35218
water quality certification under Chapter 6111. of the Revised 35219
Code and rules adopted under it shall pay an application fee of 35220
two hundred dollars at the time of application plus any of the 35221
following fees, as applicable: 35222

(1) If the water resource to be impacted is a wetland, a 35223
review fee of five hundred dollars per acre of wetland to be 35224
impacted; 35225

(2) If the water resource to be impacted is a stream, a 35226
review fee of ten dollars per linear foot of stream to be 35227
impacted; 35228

(3) If the water resource to be impacted is a lake, a review 35229
fee of three dollars per cubic yard of dredged or fill material to 35230
be moved. 35231

(B) The total fee to be paid under this section shall not 35232
exceed twenty-five thousand dollars per application. However, if 35233
the applicant is a county, township, or municipal corporation in 35234
this state, the total fee to be paid shall not exceed five 35235

<u>thousand dollars per application.</u>	35236
<u>(C) All money collected under this section shall be</u>	35237
<u>transmitted to the treasurer of state for deposit into the state</u>	35238
<u>treasury to the credit of the surface water protection fund</u>	35239
<u>created in section 6111.038 of the Revised Code.</u>	35240
<u>(D) The fees established under this section do not apply to</u>	35241
<u>any state agency as defined in section 119.01 of the Revised Code.</u>	35242
<u>(E) The fees established under this section do not apply to</u>	35243
<u>projects that are authorized by the environmental protection</u>	35244
<u>agency's general certifications of nationwide permits or general</u>	35245
<u>permits issued by the United States army corps of engineers. As</u>	35246
<u>used in this division, "general permit" and "nationwide permit"</u>	35247
<u>have the same meanings as in rules adopted under Chapter 6111. of</u>	35248
<u>the Revised Code.</u>	35249
<u>(F) The fees established under this section do not apply to</u>	35250
<u>coal mining and reclamation operations that are authorized under</u>	35251
<u>Chapter 1513. of the Revised Code.</u>	35252
Sec. 3745.12. (A) There is hereby created in the state	35253
treasury the immediate removal fund, which shall be administered	35254
by the director of environmental protection. The fund may be used	35255
for both of the following purposes:	35256
(1) To pay costs incurred by the environmental protection	35257
agency in investigating, mitigating, minimizing, removing, or	35258
abating any unauthorized spill, release, or discharge of material	35259
into or upon the environment that requires emergency action to	35260
protect the public health or safety or the environment;	35261
(2) Conducting remedial actions under section 3752.13 of the	35262
Revised Code.	35263
(B) Any person responsible for causing or allowing the	35264
unauthorized spill, release, or discharge is liable to the	35265

director for the costs incurred by the agency regardless of 35266
whether those costs were paid out of the fund created under 35267
division (A) of this section or any other fund of the agency. Upon 35268
the request of the director, the attorney general shall bring a 35269
civil action against the responsible person to recover those 35270
costs. Moneys recovered under this division shall be paid into the 35271
state treasury to the credit of the immediate removal fund, except 35272
that moneys recovered for costs paid from the hazardous waste 35273
clean-up fund created in section 3734.28 of the Revised Code shall 35274
be credited to the hazardous waste clean-up fund. 35275

Sec. 3746.04. Within one year after September 28, 1994, the 35276
director of environmental protection, in accordance with Chapter 35277
119. of the Revised Code and with the advice of the 35278
multidisciplinary council appointed under section 3746.03 of the 35279
Revised Code, shall adopt, and subsequently may amend, suspend, or 35280
rescind, rules that do both of the following: 35281

(A) Revise the rules adopted under Chapters 3704., 3714., 35282
3734., 6109., and 6111. of the Revised Code to incorporate the 35283
provisions necessary to conform those rules to the requirements of 35284
this chapter. The amended rules adopted under this division also 35285
shall establish response times for all submittals to the 35286
environmental protection agency required under this chapter or 35287
rules adopted under it. 35288

(B) Establish requirements and procedures that are reasonably 35289
necessary for the implementation and administration of this 35290
chapter, including, without limitation, all of the following: 35291

(1) Appropriate generic numerical clean-up standards for the 35292
treatment or removal of soils, sediments, and water media for 35293
hazardous substances and petroleum. The rules shall establish 35294
separate generic numerical clean-up standards based upon the 35295
intended use of properties after the completion of voluntary 35296

actions, including industrial, commercial, and residential uses 35297
and such other categories of land use as the director considers to 35298
be appropriate. The generic numerical clean-up standards 35299
established for each category of land use shall be the 35300
concentration of each contaminant that may be present on a 35301
property that shall ensure protection of public health and safety 35302
and the environment for the reasonable exposure for that category 35303
of land use. When developing the standards, the director shall 35304
consider such factors as all of the following: 35305

(a) Scientific information, including, without limitation, 35306
toxicological information and realistic assumptions regarding 35307
human and environmental exposure to hazardous substances or 35308
petroleum; 35309

(b) Climatic factors; 35310

(c) Human activity patterns; 35311

(d) Current statistical techniques; 35312

(e) For petroleum at industrial property, alternatives to the 35313
use of total petroleum hydrocarbons. 35314

The generic numerical clean-up standards established in the 35315
rules adopted under division (B)(1) of this section shall be 35316
consistent with and equivalent in scope, content, and coverage to 35317
any applicable standard established by federal environmental laws 35318
and regulations adopted under them, including, without limitation, 35319
the "Federal Water Pollution Control Act Amendments of 1972," 86 35320
Stat. 886, 33 U.S.C.A. 1251, as amended; the "Resource 35321
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 35322
6921, as amended; the "Toxic Substances Control Act," 90 Stat. 35323
2003 (1976), 15 U.S.C.A. 2601, as amended; the "Comprehensive 35324
Environmental Response, Compensation, and Liability Act of 1980," 35325
94 Stat. 2779, 42 U.S.C.A. 9601, as amended; and the "Safe 35326
Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as 35327

amended. 35328

In order for the rules adopted under division (B)(1) of this 35329
section to require that any such federal environmental standard 35330
apply to a property, the property shall meet the requirements of 35331
the particular federal statute or regulation involved in the 35332
manner specified by the statute or regulation. 35333

The generic numerical clean-up standards for petroleum at 35334
commercial or residential property shall be the standards 35335
established in rules adopted under division (B) of section 35336
3737.882 of the Revised Code. 35337

(2)(a) Procedures for performing property-specific risk 35338
assessments that would be performed at a property to demonstrate 35339
that the remedy evaluated in a risk assessment results in 35340
protection of public health and safety and the environment instead 35341
of complying with the generic numerical clean-up standards 35342
established in the rules adopted under division (B)(1) of this 35343
section. The risk assessment procedures shall describe a 35344
methodology to establish, on a property-specific basis, allowable 35345
levels of contamination to remain at a property to ensure 35346
protection of public health and safety and the environment on the 35347
property and off the property when the contamination is emanating 35348
off the property, taking into account all of the following: 35349

(i) The implementation of treatment, storage, or disposal, or 35350
a combination thereof, of hazardous substances or petroleum; 35351

(ii) The existence of institutional controls or activity and 35352
use limitations that eliminate or mitigate exposure to hazardous 35353
substances or petroleum through the restriction of access to 35354
hazardous substances or petroleum; 35355

(iii) The existence of engineering controls that eliminate or 35356
mitigate exposure to hazardous substances or petroleum through 35357
containment of, control of, or restrictions of access to hazardous 35358

substances or petroleum, including, without limitation, fences, 35359
cap systems, cover systems, and landscaping. 35360

(b) The risk assessment procedures and levels of acceptable 35361
risk set forth in the rules adopted under division (B)(2) of this 35362
section shall be based upon all of the following: 35363

(i) Scientific information, including, without limitation, 35364
toxicological information and actual or proposed human and 35365
environmental exposure; 35366

(ii) Locational and climatic factors; 35367

(iii) Surrounding land use and human activities; 35368

(iv) Differing levels of remediation that may be required 35369
when an existing land use is continued compared to when a 35370
different land use follows the remediation. 35371

(c) Any standards established pursuant to rules adopted under 35372
division (B)(2) of this section shall be no more stringent than 35373
standards established under the environmental statutes of this 35374
state and rules adopted under them for the same contaminant in the 35375
same environmental medium that are in effect at the time the risk 35376
assessment is conducted. 35377

(3) Minimum standards for phase I property assessments. The 35378
standards shall specify the information needed to demonstrate that 35379
there is no reason to believe that contamination exists on a 35380
property. The rules adopted under division (B)(3) of this section, 35381
at a minimum, shall require that a phase I property assessment 35382
include all of the following: 35383

(a) A review and analysis of deeds, mortgages, easements of 35384
record, and similar documents relating to the chain of title to 35385
the property that are publicly available or that are known to and 35386
reasonably available to the owner or operator; 35387

(b) A review and analysis of any previous environmental 35388

assessments, property assessments, environmental studies, or 35389
geologic studies of the property and any land within two thousand 35390
feet of the boundaries of the property that are publicly available 35391
or that are known to and reasonably available to the owner or 35392
operator; 35393

(c) A review of current and past environmental compliance 35394
histories of persons who owned or operated the property; 35395

(d) A review of aerial photographs of the property that 35396
indicate prior uses of the property; 35397

(e) Interviews with managers of activities conducted at the 35398
property who have knowledge of environmental conditions at the 35399
property; 35400

(f) Conducting an inspection of the property consisting of a 35401
walkover; 35402

(g) Identifying the current and past uses of the property, 35403
adjoining tracts of land, and the area surrounding the property, 35404
including, without limitation, interviews with persons who reside 35405
or have resided, or who are or were employed, within the area 35406
surrounding the property regarding the current and past uses of 35407
the property and adjacent tracts of land. 35408

The rules adopted under division (B)(3) of this section shall 35409
establish criteria to determine when a phase II property 35410
assessment shall be conducted when a phase I property assessment 35411
reveals facts that establish a reason to believe that hazardous 35412
substances or petroleum have been treated, stored, managed, or 35413
disposed of on the property if the person undertaking the phase I 35414
property assessment wishes to obtain a covenant not to sue under 35415
section 3746.12 of the Revised Code. 35416

(4) Minimum standards for phase II property assessments. The 35417
standards shall specify the information needed to demonstrate that 35418

any contamination present at the property does not exceed 35419
applicable standards or that the remedial activities conducted at 35420
the property have achieved compliance with applicable standards. 35421
The rules adopted under division (B)(4) of this section, at a 35422
minimum, shall require that a phase II property assessment include 35423
all of the following: 35424

(a) A review and analysis of all documentation prepared in 35425
connection with a phase I property assessment conducted within the 35426
one hundred eighty days before the phase II property assessment 35427
begins. The rules adopted under division (B)(4)(a) of this section 35428
shall require that if a period of more than one hundred eighty 35429
days has passed between the time that the phase I assessment of 35430
the property was completed and the phase II assessment begins, the 35431
phase II assessment shall include a reasonable inquiry into the 35432
change in the environmental condition of the property during the 35433
intervening period. 35434

(b) Quality assurance objectives for measurements taken in 35435
connection with a phase II assessment; 35436

(c) Sampling procedures to ensure the representative sampling 35437
of potentially contaminated environmental media; 35438

(d) Quality assurance and quality control requirements for 35439
samples collected in connection with phase II assessments; 35440

(e) Analytical and data assessment procedures; 35441

(f) Data objectives to ensure that samples collected in 35442
connection with phase II assessments are biased toward areas where 35443
information indicates that contamination by hazardous substances 35444
or petroleum is likely to exist. 35445

(5) Standards governing the conduct of certified 35446
professionals, criteria and procedures for the certification of 35447
professionals to issue no further action letters under section 35448

3746.11 of the Revised Code, and criteria for the suspension and 35449
revocation of those certifications. The director shall take an 35450
action regarding a certification as a final action. The issuance, 35451
denial, renewal, suspension, and revocation of those 35452
certifications are subject to Chapter 3745. of the Revised Code, 35453
~~and the director shall take any such action regarding a~~ 35454
~~certification as a final action~~ except that, in lieu of publishing 35455
an action regarding a certification in a newspaper of general 35456
circulation as required in section 3745.07 of the Revised Code, 35457
such an action shall be published on the environmental protection 35458
agency's web site and in the agency's weekly review not later than 35459
fifteen days after the date of the issuance, denial, renewal, 35460
suspension, or revocation of the certification and not later than 35461
thirty days before a hearing or public meeting concerning the 35462
action. 35463

The rules adopted under division (B)(5) of this section shall 35464
do all of the following: 35465

(a) Provide for the certification of environmental 35466
professionals to issue no further action letters pertaining to 35467
investigations and remedies in accordance with the criteria and 35468
procedures set forth in the rules. The rules adopted under 35469
division (B)(5)(a) of this section shall do at least all of the 35470
following: 35471

(i) Authorize the director to consider such factors as an 35472
environmental professional's previous performance record regarding 35473
such investigations and remedies and the environmental 35474
professional's environmental compliance history when determining 35475
whether to certify the environmental professional; 35476

(ii) Ensure that an application for certification is reviewed 35477
in a timely manner; 35478

(iii) Require the director to certify any environmental 35479

professional who the director determines complies with those	35480
criteria;	35481
(iv) Require the director to deny certification for any	35482
environmental professional who does not comply with those	35483
criteria.	35484
(b) Establish an annual fee to be paid by environmental	35485
professionals certified pursuant to the rules adopted under	35486
division (B)(5)(a) of this section. The fee shall be established	35487
at an amount calculated to defray the costs to the environmental	35488
protection agency for the required reviews of the qualifications	35489
of environmental professionals for certification and for the	35490
issuance of the certifications.	35491
(c) Develop a schedule for and establish requirements	35492
governing the review by the director of the credentials of	35493
environmental professionals who were deemed to be certified	35494
professionals under division (D) of section 3746.07 of the Revised	35495
Code in order to determine if they comply with the criteria	35496
established in rules adopted under division (B)(5) of this	35497
section. The rules adopted under division (B)(5)(c) of this	35498
section shall do at least all of the following:	35499
(i) Ensure that the review is conducted in a timely fashion;	35500
(ii) Require the director to certify any such environmental	35501
professional who the director determines complies with those	35502
criteria;	35503
(iii) Require any such environmental professional initially	35504
to pay the fee established in the rules adopted under division	35505
(B)(5)(b) of this section at the time that the environmental	35506
professional is so certified by the director;	35507
(iv) Establish a time period within which any such	35508
environmental professional who does not comply with those criteria	35509

may obtain the credentials that are necessary for certification; 35510

(v) Require the director to deny certification for any such 35511
environmental professional who does not comply with those criteria 35512
and who fails to obtain the necessary credentials within the 35513
established time period. 35514

(d) Require that any information submitted to the director 35515
for the purposes of the rules adopted under division (B)(5)(a) or 35516
(c) of this section comply with division (A) of section 3746.20 of 35517
the Revised Code; 35518

(e) Authorize the director to suspend or revoke the 35519
certification of an environmental professional if the director 35520
finds that the environmental professional's performance has 35521
resulted in the issuance of no further action letters under 35522
section 3746.11 of the Revised Code that are not consistent with 35523
applicable standards or finds that the certified environmental 35524
professional has not substantially complied with section 3746.31 35525
of the Revised Code; 35526

(f) Authorize the director to suspend for a period of not 35527
more than five years or to permanently revoke a certified 35528
environmental professional's certification for any violation of or 35529
failure to comply with an ethical standard established in rules 35530
adopted under division (B)(5) of this section-; 35531

(g) Require the director to revoke the certification of an 35532
environmental professional if the director finds that the 35533
environmental professional falsified any information on the 35534
environmental professional's application for certification 35535
regarding the environmental professional's credentials or 35536
qualifications or any other information generated for the purposes 35537
of or use under this chapter or rules adopted under it; 35538

(h) Require the director permanently to revoke the 35539
certification of an environmental professional who has violated or 35540

is violating division (A) of section 3746.18 of the Revised Code; 35541

(i) Preclude the director from revoking the certification of 35542
an environmental professional who only conducts investigations and 35543
remedies at property contaminated solely with petroleum unless the 35544
director first consults with the director of commerce. 35545

(6) Criteria and procedures for the certification of 35546
laboratories to perform analyses under this chapter and rules 35547
adopted under it. The issuance, denial, suspension, and revocation 35548
of those certifications are subject to Chapter 3745. of the 35549
Revised Code, and the director of environmental protection shall 35550
take any such action regarding a certification as a final action. 35551

The rules adopted under division (B)(6) of this section shall 35552
do all of the following: 35553

(a) Provide for the certification to perform analyses of 35554
laboratories in accordance with the criteria and procedures 35555
established in the rules adopted under division (B)(6)(a) of this 35556
section and establish an annual fee to be paid by those 35557
laboratories. The fee shall be established at an amount calculated 35558
to defray the costs to the agency for the review of the 35559
qualifications of those laboratories for certification and for the 35560
issuance of the certifications. The rules adopted under division 35561
(B)(6)(a) of this section may provide for the certification of 35562
those laboratories to perform only particular types or categories 35563
of analyses, specific test parameters or group of test parameters, 35564
or a specific matrix or matrices under this chapter. 35565

(b) Develop a schedule for and establish requirements 35566
governing the review by the director of the operations of 35567
laboratories that were deemed to be certified laboratories under 35568
division (E) of section 3746.07 of the Revised Code in order to 35569
determine if they comply with the criteria established in rules 35570
adopted under division (B)(6) of this section. The rules adopted 35571

under division (B)(6)(b) of this section shall do at least all of 35572
the following: 35573

(i) Ensure that the review is conducted in a timely fashion; 35574

(ii) Require the director to certify any such laboratory that 35575
the director determines complies with those criteria; 35576

(iii) Require any such laboratory initially to pay the fee 35577
established in the rules adopted under division (B)(6)(a) of this 35578
section at the time that the laboratory is so certified by the 35579
director; 35580

(iv) Establish a time period within which any such laboratory 35581
that does not comply with those criteria may make changes in its 35582
operations necessary for the performance of analyses under this 35583
chapter and rules adopted under it in order to be certified by the 35584
director; 35585

(v) Require the director to deny certification for any such 35586
laboratory that does not comply with those criteria and that fails 35587
to make the necessary changes in its operations within the 35588
established time period. 35589

(c) Require that any information submitted to the director 35590
for the purposes of the rules adopted under division (B)(6)(a) or 35591
(b) of this section comply with division (A) of section 3746.20 of 35592
the Revised Code; 35593

(d) Authorize the director to suspend or revoke the 35594
certification of a laboratory if the director finds that the 35595
laboratory's performance has resulted in the issuance of no 35596
further action letters under section 3746.11 of the Revised Code 35597
that are not consistent with applicable standards; 35598

(e) Authorize the director to suspend or revoke the 35599
certification of a laboratory if the director finds that the 35600
laboratory falsified any information on its application for 35601

certification regarding its credentials or qualifications; 35602

(f) Require the director permanently to revoke the 35603
certification of a laboratory that has violated or is violating 35604
division (A) of section 3746.18 of the Revised Code. 35605

(7) Information to be included in a no further action letter 35606
prepared under section 3746.11 of the Revised Code, including, 35607
without limitation, all of the following: 35608

(a) A summary of the information required to be submitted to 35609
the certified environmental professional preparing the no further 35610
action letter under division (C) of section 3746.10 of the Revised 35611
Code; 35612

(b) Notification that a risk assessment was performed in 35613
accordance with rules adopted under division (B)(2) of this 35614
section if such an assessment was used in lieu of generic 35615
numerical clean-up standards established in rules adopted under 35616
division (B)(1) of this section; 35617

(c) The contaminants addressed at the property, if any, their 35618
source, if known, and their levels prior to remediation; 35619

(d) The identity of any other person who performed work to 35620
support the request for the no further action letter as provided 35621
in division (B)(2) of section 3746.10 of the Revised Code and the 35622
nature and scope of the work performed by that person; 35623

(e) A list of the data, information, records, and documents 35624
relied upon by the certified environmental professional in 35625
preparing the no further action letter. 35626

(8) Methods for determining fees to be paid for the following 35627
services provided by the agency under this chapter and rules 35628
adopted under it: 35629

(a) Site- or property-specific technical assistance in 35630
developing or implementing plans in connection with a voluntary 35631

action;	35632
(b) Reviewing applications for and issuing consolidated standards permits under section 3746.15 of the Revised Code and monitoring compliance with those permits;	35633 35634 35635
(c) Negotiating, preparing, and entering into agreements necessary for the implementation and administration of this chapter and rules adopted under it;	35636 35637 35638
(d) Reviewing no further action letters, issuing covenants not to sue, and monitoring compliance with any terms and conditions of those covenants and with operation and maintenance agreements entered into pursuant to those covenants, including, without limitation, conducting audits of properties where voluntary actions are being or were conducted under this chapter and rules adopted under it.	35639 35640 35641 35642 35643 35644 35645
The fees established pursuant to the rules adopted under division (B)(8) of this section shall be at a level sufficient to defray the direct and indirect costs incurred by the agency for the administration and enforcement of this chapter and rules adopted under it other than the provisions regarding the certification of professionals and laboratories.	35646 35647 35648 35649 35650 35651
(9) Criteria for selecting the no further action letters issued under section 3746.11 of the Revised Code that will be audited under section 3746.17 of the Revised Code, and the scope and procedures for conducting those audits. The rules adopted under division (B)(9) of this section, at a minimum, shall require the director to establish priorities for auditing no further action letters to which any of the following applies:	35652 35653 35654 35655 35656 35657 35658
(a) The letter was prepared by an environmental professional who was deemed to be a certified professional under division (D) of section 3746.07 of the Revised Code, but who does not comply with the criteria established in rules adopted under division	35659 35660 35661 35662

(B)(5) of this section as determined pursuant to rules adopted 35663
under division (B)(5)(d) of this section-; 35664

(b) The letter was submitted fraudulently-; 35665

(c) The letter was prepared by a certified environmental 35666
professional whose certification subsequently was revoked in 35667
accordance with rules adopted under division (B)(5) of this 35668
section, or analyses were performed for the purposes of the no 35669
further action letter by a certified laboratory whose 35670
certification subsequently was revoked in accordance with rules 35671
adopted under division (B)(6) of this section-; 35672

(d) A covenant not to sue that was issued pursuant to the 35673
letter was revoked under this chapter-; 35674

(e) The letter was for a voluntary action that was conducted 35675
pursuant to a risk assessment in accordance with rules adopted 35676
under division (B)(2) of this section-; 35677

(f) The letter was for a voluntary action that included as 35678
remedial activities engineering controls or institutional controls 35679
or activity and use limitations authorized under section 3746.05 35680
of the Revised Code. 35681

The rules adopted under division (B)(9) of this section shall 35682
provide for random audits of no further action letters to which 35683
the rules adopted under divisions (B)(9)(a) to (f) of this section 35684
do not apply. 35685

(10) A classification system to characterize ground water 35686
according to its capability to be used for human use and its 35687
impact on the environment and a methodology that shall be used to 35688
determine when ground water that has become contaminated from 35689
sources on a property for which a covenant not to sue is requested 35690
under section 3746.11 of the Revised Code shall be remediated to 35691
the standards established in the rules adopted under division 35692

(B)(1) or (2) of this section.	35693
(a) In adopting rules under division (B)(10) of this section to characterize ground water according to its capability for human use, the director shall consider all of the following:	35694 35695 35696
(i) The presence of legally enforceable, reliable restrictions on the use of ground water, including, without limitation, local rules or ordinances;	35697 35698 35699
(ii) The presence of regional commingled contamination from multiple sources that diminishes the quality of ground water;	35700 35701
(iii) The natural quality of ground water;	35702
(iv) Regional availability of ground water and reasonable alternative sources of drinking water;	35703 35704
(v) The productivity of the aquifer;	35705
(vi) The presence of restrictions on the use of ground water implemented under this chapter and rules adopted under it;	35706 35707
(vii) The existing use of ground water.	35708
(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:	35709 35710 35711
(i) The risks posed to humans, fauna, surface water, sediments, soil, air, and other resources by the continuing presence of contaminated ground water;	35712 35713 35714
(ii) The availability and feasibility of technology to remedy ground water contamination.	35715 35716
(11) Governing the application for and issuance of variances under section 3746.09 of the Revised Code;	35717 35718
(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	35719 35720 35721

rules adopted under division (B)(1) of this section and standards 35722
established through a risk assessment conducted pursuant to rules 35723
adopted under division (B)(2) of this section shall be 35724
inapplicable to the remediation of contaminated ground water and 35725
under which the standards for remediating contaminated ground 35726
water shall be established on a case-by-case basis prior to the 35727
commencement of the voluntary action pursuant to rules adopted 35728
under division (B)(12)(b) of this section; 35729

(b) Criteria and procedures for the case-by-case 35730
establishment of standards for the remediation of contaminated 35731
ground water under circumstances in which the use of the generic 35732
numerical clean-up standards and standards established through a 35733
risk assessment are precluded by the rules adopted under division 35734
(B)(12)(a) of this section. The rules governing the procedures for 35735
the case-by-case development of standards for the remediation of 35736
contaminated ground water shall establish application, public 35737
participation, adjudication, and appeals requirements and 35738
procedures that are equivalent to the requirements and procedures 35739
established in section 3746.09 of the Revised Code and rules 35740
adopted under division (B)(11) of this section, except that the 35741
procedural rules shall not require an applicant to make the 35742
demonstrations set forth in divisions (A)(1) to (3) of section 35743
3746.09 of the Revised Code. 35744

(13) A definition of the evidence that constitutes sufficient 35745
evidence for the purpose of division (A)(5) of section 3746.02 of 35746
the Revised Code. 35747

At least thirty days before filing the proposed rules 35748
required to be adopted under this section with the secretary of 35749
state, director of the legislative service commission, and joint 35750
committee on agency rule review in accordance with divisions (B) 35751
and (H) of section 119.03 of the Revised Code, the director of 35752
environmental protection shall hold at least one public meeting on 35753

the proposed rules in each of the five districts into which the 35754
agency has divided the state for administrative purposes. 35755

Sec. 3746.071. (A) As used in this section, "certified 35756
professional" means a certified professional deemed to be 35757
certified under division (D) of section 3746.07 of the Revised 35758
Code. 35759

(B) A certified professional shall do all of the following: 35760

(1) Protect the safety, health, and welfare of the public in 35761
the performance of ~~his~~ professional duties. If a circumstance 35762
arises where the certified professional faces a situation where 35763
the safety, health, or welfare of the public would not be 35764
protected, ~~he~~ the certified professional shall do all of the 35765
following: 35766

(a) Sever ~~his~~ the relationship with ~~his~~ the certified 35767
professional's employer or client; 35768

(b) Refuse to accept responsibility for the design, report, 35769
or statement involved; 35770

(c) Notify the director of environmental protection if, in 35771
the opinion of the certified professional, the situation is 35772
sufficiently important. 35773

(2) Undertake to perform assignments only when ~~he~~ the 35774
certified professional or ~~his~~ the certified professional's 35775
consulting support is qualified by training and experience in the 35776
specific technical fields involved; 35777

(3) Be completely objective in any professional report, 35778
statement, or testimony. ~~He~~ The certified professional shall 35779
include all relevant and pertinent information in the report, 35780
statement, or testimony when the result of an omission would or 35781
reasonably could lead to a fallacious conclusion. 35782

(4) Express an opinion as a technical or expert witness 35783
before any court, commission, or other tribunal only when it is 35784
founded upon adequate knowledge of the facts in issue, upon a 35785
background of technical competence in the subject matter, and upon 35786
honest conviction of the accuracy and propriety of ~~his~~ the 35787
testimony. 35788

(C) A certified professional shall not issue statements, 35789
criticisms, or arguments on matters connected with public policy 35790
that are inspired or paid for by an interested party, unless ~~he~~ 35791
the certified professional has prefaced ~~his~~ the remarks by 35792
explicitly identifying ~~himself~~ the certified professional, by 35793
disclosing the identity of the parties on whose behalf ~~he~~ the 35794
certified professional is speaking, and by revealing the existence 35795
of any pecuniary interest ~~he~~ the certified professional may have 35796
in the instant matters. 35797

(D)(1) A certified professional shall conscientiously avoid 35798
any conflict of interest with ~~his~~ the certified professional's 35799
employer or client. 35800

(2) A certified professional promptly shall inform ~~his~~ the 35801
certified professional's employer or client of any business 35802
association, interests, or circumstances that could influence ~~his~~ 35803
the certified professional's judgment or the quality of ~~his~~ the 35804
certified professional's service to ~~his~~ the employer or client. 35805

(3) A certified professional shall not accept compensation, 35806
financial or otherwise, from more than one party for services on 35807
or pertaining to the same project, unless the circumstances are 35808
fully disclosed to, and agreed to, by all interested parties or 35809
their duly authorized agents. 35810

(4) A certified professional shall not solicit or accept 35811
financial or other valuable considerations from material or 35812
equipment suppliers for specifying their products. 35813

(5) A certified professional shall not solicit or accept 35814
gratuities, directly or indirectly, from contractors, their 35815
agents, or other parties dealing directly with ~~his~~ the certified 35816
professional's employer or client in connection with the work for 35817
which ~~he~~ the certified professional is responsible. 35818

(E)(1) A certified professional shall not pay, solicit, or 35819
offer, directly or indirectly, any bribe or commission for 35820
professional employment with the exception of ~~his~~ payment of the 35821
usual commission for securing salaried positions through licensed 35822
employment agencies. 35823

(2) A certified professional shall seek professional 35824
employment on the basis of qualification and competence for proper 35825
accomplishment of the work. A certified professional may submit 35826
proposed fee information prior to ~~his~~ selection to serve as a 35827
certified professional under this chapter and rules adopted under 35828
it. 35829

(3) A certified professional shall not falsify or permit 35830
misrepresentation of ~~his~~ the certified professional's or ~~his~~ the 35831
certified professional's associates' academic or professional 35832
qualifications. ~~He~~ The certified professional shall not 35833
misrepresent or exaggerate ~~his~~ the certified professional's degree 35834
of responsibility in or for the subject matter of prior 35835
assignments. 35836

(4) Brochures or other presentations incident to the 35837
solicitation of employment by a certified professional shall not 35838
misrepresent pertinent facts concerning ~~his~~ the certified 35839
professional's employers, employees, associates, or joint 35840
ventures, or ~~his or their~~ the past accomplishments of any of them, 35841
with the intent and purpose of enhancing ~~his~~ the certified 35842
professional's qualifications for ~~his~~ the certified professional's 35843
work. 35844

(F)(1) A certified professional shall not sign or seal 35845
professional work for which ~~he~~ the certified professional does not 35846
have personal professional knowledge and direct supervisory 35847
control and responsibility. 35848

(2) A certified professional shall not knowingly associate 35849
with, or permit the use of ~~his~~ the certified professional's own 35850
name or ~~his firm's~~ the name of the certified professional's firm 35851
in, a business venture by any person or firm that ~~he~~ the certified 35852
professional knows, or has reason to believe, is engaging in 35853
business or professional practices of a fraudulent or dishonest 35854
nature. 35855

(3) If a certified professional has knowledge or reason to 35856
believe that another person or firm has violated any of the 35857
provisions of this chapter or any requirement of this section, ~~he~~ 35858
the certified professional shall present the information to the 35859
director in writing. 35860

(G) The director, in accordance with ~~Chapter 3745-~~ rules 35861
adopted under section 3746.04 of the Revised Code, may suspend for 35862
a period of not more than five years or permanently revoke a 35863
certified professional's certification for a violation of or 35864
failure to comply with any requirement or obligation set forth in 35865
this section. 35866

Sec. 3748.07. (A) Every facility that proposes to handle 35867
radioactive material or radiation-generating equipment for which 35868
licensure or registration, respectively, by its handler is 35869
required shall apply in writing to the director of health on forms 35870
prescribed and provided by the director for licensure or 35871
registration. Terms and conditions of licenses and certificates of 35872
registration may be amended in accordance with rules adopted under 35873
section 3748.04 of the Revised Code or orders issued by the 35874
director pursuant to section 3748.05 of the Revised Code. 35875

(B) Until rules are adopted under section 3748.04 of the Revised Code, an application for a certificate of registration shall be accompanied by a biennial registration fee of two hundred eighteen dollars. On and after the effective date of those rules, an applicant for a license, registration certificate, or renewal of either shall pay the appropriate fee established in those rules.

All fees collected under this section shall be deposited in the state treasury to the credit of 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) The director shall grant a license or registration to any applicant who has paid the required fee and is in compliance with this chapter and rules adopted under it.

Until rules are adopted under section 3748.04 of the Revised Code, certificates of registration shall be effective for two years from the date of issuance. On and after the effective date of those rules, licenses and certificates of registration shall be effective for the applicable period established in those rules. Licenses and certificates of registration shall be renewed in accordance with the standard renewal procedure established in Chapter 4745. of the Revised Code.

Sec. 3748.13. (A) The director of health shall inspect sources of radiation for which licensure or registration by the

handler is required, and the sources' shielding and surroundings, 35906
according to the schedule established in rules adopted under 35907
division (D) of section 3748.04 of the Revised Code. In accordance 35908
with rules adopted under that section, the director shall inspect 35909
all records and operating procedures of handlers that install 35910
sources of radiation and all sources of radiation for which 35911
licensure of radioactive material or registration of 35912
radiation-generating equipment by the handler is required. The 35913
director may make other inspections upon receiving complaints or 35914
other evidence of violation of this chapter or rules adopted under 35915
it. 35916

The director shall require any hospital registered under 35917
division (A) of section 3701.07 of the Revised Code to develop and 35918
maintain a quality assurance program for all sources of 35919
radiation-generating equipment. A certified radiation expert shall 35920
conduct oversight and maintenance of the program and shall file a 35921
report of audits of the program with the director on forms 35922
prescribed by the director. The audit reports shall become part of 35923
the inspection record. 35924

(B) Until rules are adopted under division (A)(8) of section 35925
3748.04 of the Revised Code, a facility shall pay inspection fees 35926
according to the following schedule and categories: 35927

First dental x-ray tube	\$ 118.00 <u>129.00</u>	35928
Each additional dental x-ray tube at the same location	\$ 59.00 <u>64.00</u>	35929
First medical x-ray tube	\$ 235.00 <u>256.00</u>	35930
Each additional medical x-ray tube at the same location	\$ 125.00 <u>136.00</u>	35931
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$ 466.00 <u>508.00</u>	35932

First nonionizing radiation-generating equipment of any kind	\$ 235.00 <u>256.00</u>	35933
Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ 125.00 <u>136.00</u>	35934
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>	35935
Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, the fee for an inspection to 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 <u>ninety-five</u> dollars plus the fee applicable under the schedule in this division.		35936 35937 35938 35939 35940 35941 35942 35943 35944 35945
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 <u>six</u> hundred eighty-three <u>thirty-five</u> 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.		35946 35947 35948 35949 35950 35951 35952 35953 35954
All fees shall be paid to the department of health no later than thirty days after the invoice for the fee is mailed. Fees		35955 35956

shall be deposited in the general operations fund created in 35957
section 3701.83 of the Revised Code. The fees shall be used solely 35958
to administer and enforce this chapter and rules adopted under it. 35959

Any fee required under this section that has not been paid 35960
within ninety days after the invoice date shall be assessed at two 35961
times the original invoiced fee. Any fee that has not been paid 35962
within one hundred eighty days after the invoice date shall be 35963
assessed at five times the original invoiced fee. 35964

(C) If the director determines that a board of health of a 35965
city or general health district is qualified to conduct 35966
inspections of radiation-generating equipment, the director may 35967
delegate to the board, by contract, the authority to conduct such 35968
inspections. In making a determination of the qualifications of a 35969
board of health to conduct those inspections, the director shall 35970
evaluate the credentials of the individuals who are to conduct the 35971
inspections of radiation-generating equipment and the radiation 35972
detection and measuring equipment available to them for that 35973
purpose. If a contract is entered into, the board shall have the 35974
same authority to make inspections of radiation-generating 35975
equipment as the director has under this chapter and rules adopted 35976
under it. The contract shall stipulate that only individuals 35977
approved by the director as qualified shall be permitted to 35978
inspect radiation-generating equipment under the contract's 35979
provisions. The contract shall provide for such compensation for 35980
services as is agreed to by the director and the board of health 35981
of the contracting health district. The director may reevaluate 35982
the credentials of the inspection personnel and their radiation 35983
detecting and measuring equipment as often as the director 35984
considers necessary and may terminate any contract with the board 35985
of health of any health district that, in the director's opinion, 35986
is not satisfactorily performing the terms of the contract. 35987

(D) The director may enter at all reasonable times upon any 35988

public or private property to determine compliance with this 35989
chapter and rules adopted under it. 35990

Sec. 3770.061. There is hereby created in the state treasury 35991
the charitable gaming oversight fund. The state lottery commission 35992
shall credit to the fund any money it receives from the office of 35993
the attorney general under any agreement the commission and the 35994
office have entered into under division (I) of section 2915.08 of 35995
the Revised Code. The commission shall use money in the fund to 35996
provide oversight, licensing, and monitoring of charitable gaming 35997
activities in this state in accordance with the agreement and 35998
Chapter 2915. of the Revised Code. Not later than the first day of 35999
July of each fiscal year, or as soon as possible thereafter, the 36000
commission may certify to the office of budget and management any 36001
unobligated fund balances not necessary to be used under this 36002
section. The commission may request the office of budget and 36003
management to transfer these balances to the lottery profits 36004
education fund for use in accordance with section 3770.06 of the 36005
Revised Code. 36006

Sec. 3773.34. (A) The Ohio athletic commission shall adopt 36007
and may amend or rescind rules in accordance with Chapter 119. of 36008
the Revised Code, prescribing the conditions under which prize 36009
fights and public boxing or wrestling matches or exhibitions may 36010
be conducted, classifying professional boxers by weight, and 36011
providing for the administration of sections 3773.31 to 3773.57 of 36012
the Revised Code. The rules may require that an applicant for a 36013
contestant's license to participate in a public boxing match or 36014
exhibition take an HIV test, as defined in section 3701.24 of the 36015
Revised Code, before being issued the contestant's license and may 36016
require that a licensed contestant take such an HIV test before 36017
participating in a public boxing match or exhibition. The 36018
commission, or the commission's executive director when authorized 36019

by the commission, may issue, deny, suspend, or revoke permits to 36020
hold prize fights and public boxing or wrestling matches or 36021
exhibitions, ~~and. The commission~~ may issue, deny, suspend, or 36022
revoke licenses to persons engaged in any public boxing match or 36023
exhibition as authorized by sections 3773.31 to 3773.57 of the 36024
Revised Code. 36025

(B) In addition to the duties set forth in this chapter, the 36026
Ohio athletic commission shall take action as necessary to carry 36027
out the provisions of Chapter 4771. of the Revised Code governing 36028
athlete agents. 36029

(C) On or before the thirty-first day of December of each 36030
year, the commission shall make a report to the governor of its 36031
proceedings for the year ending on the first day of December of 36032
that calendar year, and may include in the report any 36033
recommendations pertaining to its duties. 36034

Sec. 3773.38. Each person who holds a promoter's license 36035
issued under section 3773.36 of the Revised Code who desires to 36036
conduct a public boxing or wrestling match or exhibition where one 36037
or more contests are to be held shall obtain a permit from the 36038
Ohio athletic commission or the commission's executive director 36039
when the executive director is authorized by the commission to 36040
issue those types of permits. Application for such a permit shall 36041
be made in writing and on forms prescribed by the commission, 36042
shall be filed with the commission, and shall be accompanied by 36043
the permit fee prescribed in section 3773.43 of the Revised Code. 36044

The application for a permit issued under this section shall 36045
include the date and starting time of the match or exhibition, the 36046
address of the place where the match or exhibition is to be held, 36047
the names of the contestants, the seating capacity of the building 36048
or hall where the exhibition is to be held, the admission charge 36049

or any other charges, the amount of compensation or the percentage 36050
of gate receipts to be paid to each contestant, the name and 36051
address of the applicant, a copy of the current official rules 36052
that govern the particular sport, and the serial number of the 36053
applicant's promoter's license. 36054

The commission, or the commission's executive director when 36055
authorized by the commission, may require the applicant to deposit 36056
with the commission before a public boxing match or exhibition a 36057
cash bond, certified check, bank draft, or surety bond in an 36058
amount equal to five per cent of the estimated gross receipts from 36059
the match or exhibition. 36060

Sec. 3773.39. (A) Upon receipt of an application for a permit 36061
to hold a public boxing or wrestling match or exhibition under 36062
section 3773.38 of the Revised Code, the Ohio athletic commission, 36063
or the commission's executive director when authorized by the 36064
commission, shall determine if the applicant holds a valid 36065
promoter's license issued pursuant to section 3773.36 of the 36066
Revised Code. Upon receipt of an application for a permit to hold 36067
a public boxing match or exhibition, the commission, or the 36068
commission's executive director when authorized by the commission, 36069
also shall determine if the contestants are evenly and fairly 36070
matched according to skill, experience, and weight so as to 36071
produce a fair and sportsmanlike contest, and whether the 36072
applicant is financially responsible and is able to pay to each 36073
contestant the compensation or percentage of the gate receipts 36074
named in the application. The commission, or the commission's 36075
executive director when authorized by the commission, may, if 36076
applicable, require the applicant to deposit with it within 36077
forty-eight hours before the match or exhibition the total 36078
compensation or estimated portion of gate receipts to be paid all 36079
contestants named in the application made under section 3773.38 of 36080

the Revised Code. 36081

(B) If the commission, or the commission's executive director 36082
when authorized by the commission, determines that the applicant 36083
has met all the requirements specified in division (A) of this 36084
section, ~~it~~ the commission or executive director shall issue the 36085
applicant a permit to conduct the match or exhibition. If the 36086
applicant fails to deposit any compensation or portion of gate 36087
receipts required by the commission, or executive director before 36088
the first contest of the match or exhibition is held, the 36089
commission, or the commission's executive director when authorized 36090
by the commission, may revoke the permit and order the applicant 36091
not to conduct the match or exhibition described in the permit. 36092

(C) Each permit issued pursuant to this section shall bear 36093
the name and post office address of the applicant, the address of 36094
the place where the public boxing or wrestling match or exhibition 36095
is to be held, the date and starting time of the match or 36096
exhibition, and a serial number designated by the commission. 36097

A permit issued under this section shall allow the permit 36098
holder to conduct only the match or exhibition named in the 36099
permit. A permit is not transferable. 36100

Sec. 3773.40. No person who holds a promoter's license to 36101
conduct a public boxing match or exhibition under section 3773.36 36102
of the Revised Code shall: 36103

(A) Hold any match or exhibition at any time or place other 36104
than that stated on a permit issued under section 3773.38 of the 36105
Revised Code; 36106

(B) Allow any contestant to participate in the match or 36107
exhibition unless the contestant is the licensed contestant named 36108
in the application for such permit or a licensed contestant 36109
authorized to compete as a substitute for such a contestant by the 36110

inspector assigned to the facility where the match or exhibition
is held for that match or exhibition;

(C) Charge a higher admission price for a match or exhibition
than that stated in the application;

(D) Pay a greater compensation or percentage of the gate
receipts to any contestant than that stated in the application.

The Ohio athletic commission, or the commission's executive
director when authorized by the commission, upon application by a
holder of a permit under section 3773.38 of the Revised Code, may
allow the permit holder to hold the match or exhibition for which
the permit was issued at an alternative site that is within the
same municipal corporation or township and that offers
substantially similar seating facilities, or allow the permit
holder to substitute contestants or seconds, provided that the
substitute contestants are evenly matched with their opponents in
skill, experience, and weight.

Sec. 3773.57. The Ohio athletic commission and the
commission's executive director shall not issue a license or
permit to conduct public boxing or wrestling matches or
exhibitions in a municipal corporation or the unincorporated
portion of a township if the commission or the commission's
executive director determines that the legislative authority of
the municipal corporation or board of township trustees has in
effect an ordinance or resolution prohibiting such matches or
exhibitions.

Sec. 3793.09. (A) There is hereby created the council on
alcohol and drug addiction services which shall consist of the
public officials specified in division (B) of this section, or
their designees, and thirteen members appointed by the governor
with the advice and consent of the senate. The members appointed

by the governor shall be representatives of the following: boards 36141
of alcohol, drug addiction, and mental health services; the 36142
criminal and juvenile justice systems; and alcohol and drug 36143
addiction programs. At least four of the appointed members shall 36144
be persons who have received or are receiving alcohol or drug 36145
addiction services or are parents or other relatives of such 36146
persons; of these at least two shall be women and at least one 36147
shall be a member of a minority group. 36148

The governor shall make initial appointments to the council 36149
not later than thirty days after October 10, 1989. Of the initial 36150
appointments, six shall be for terms ending July 31, 1991, and 36151
seven shall be for terms ending July 31, 1992. Thereafter, terms 36152
of office shall be two years, with each term ending on the same 36153
day of the same month as the term it succeeds. Each member shall 36154
hold office from the date of the member's appointment until the 36155
end of the term for which the member was appointed. Members may be 36156
reappointed. Vacancies shall be filled in the same manner as 36157
original appointments. Any member appointed to fill a vacancy 36158
occurring prior to the expiration of the term for which the 36159
member's predecessor was appointed shall hold office as a member 36160
for the remainder of the term. A member shall continue in office 36161
subsequent to the expiration of the member's term until the 36162
member's successor takes office or until a period of sixty days 36163
has elapsed, whichever occurs first. 36164

(B) The directors of health, public safety, mental health, 36165
rehabilitation and correction, and youth services; the 36166
superintendents of public instruction and liquor control; the 36167
attorney general; the adjutant general; and the executive director 36168
of the office division of criminal justice services in the 36169
department of public safety shall be voting members of the 36170
council, except that any of these officials may designate an 36171
individual to serve in the official's place as a voting member of 36172

the council. The director of alcohol and drug addiction services 36173
shall serve as a nonvoting member of the council. 36174

(C) The governor shall annually appoint a ~~chairman~~ 36175
chairperson from among the members of the council. The council 36176
shall meet quarterly and at other times the ~~chairman~~ chairperson 36177
considers necessary. In addition to other duties specified in this 36178
chapter, the council shall review the development of the 36179
comprehensive statewide plan for alcohol and drug addiction 36180
services, revisions of the plan, and other actions taken to 36181
implement the purposes of this chapter by the department of 36182
alcohol and drug addiction services and shall act as an advisory 36183
council to the director of alcohol and drug addiction services. 36184

(D) Members of the council shall serve without compensation, 36185
but shall be paid actual and necessary expenses incurred in the 36186
performance of their duties. 36187

Sec. 3901.021. (A) Three-fourths of all appointment and other 36188
fees collected under section 3905.10, and division (B) of section 36189
3905.20, ~~and division (A)(6) of section 3905.40~~ of the Revised 36190
Code shall be paid into the state treasury to the credit of the 36191
department of insurance operating fund, which is hereby created. 36192
The remaining one-fourth shall be credited to the general revenue 36193
fund. All other revenues collected by the superintendent of 36194
insurance, such as registration fees for sponsored seminars or 36195
conferences and grants from private entities, shall be paid into 36196
the state treasury to the credit of the department of insurance 36197
operating fund. 36198

(B) Seven-tenths of all fees collected under divisions 36199
(A)(2), (A)(3), and (A)(6) of section 3905.40 of the Revised Code 36200
shall be paid into the state treasury to the credit of the 36201
department of insurance operating fund. The remaining three-tenths 36202
shall be credited to the general revenue fund. 36203

(C) All operating expenses of the department of insurance 36204
except those expenses defined under section 3901.07 of the Revised 36205
Code shall be paid from the department of insurance operating 36206
fund. 36207

Sec. 3901.17. (A) As used in this section: 36208

(1) "Insurer" includes, but is not limited to, any person 36209
that is an affiliate of or affiliated with the insurer, as defined 36210
in division (A) of section 3901.32 of the Revised Code, and any 36211
person that is a subsidiary of the insurer as defined in division 36212
(F) of section 3901.32 of the Revised Code. 36213

(2) "Laws of this state relating to insurance" has the 36214
meaning defined in division (A)(1) of section 3901.04 of the 36215
Revised Code. 36216

(3) "Person" has the meaning defined in division (A) of 36217
section 3901.19 of the Revised Code. 36218

(B) Any of the following acts in this state, effected by mail 36219
or otherwise, by any foreign or alien insurer not authorized to 36220
transact business within this state, any nonresident person acting 36221
on behalf of an insurer, or any nonresident insurance agent 36222
subjects the insurer, person, or agent to the exercise of personal 36223
jurisdiction over the insurer, person, or agent to the extent 36224
permitted by the constitutions of this state and of the United 36225
States: 36226

(1) Issuing or delivering contracts of insurance to residents 36227
of this state or to corporations authorized to do business 36228
therein; 36229

(2) Making or proposing to make any insurance contracts; 36230

(3) Soliciting, taking, or receiving any application for 36231
insurance; 36232

(4) Receiving or collecting any premium, commission, 36233
membership fee, assessment, dues, or other consideration for any 36234
insurance contract or any part thereof; 36235

(5) Disseminating information as to coverage or rates, 36236
forwarding applications, inspecting risks, fixing rates, 36237
investigating or adjusting claims or losses, transacting any 36238
matters subsequent to effecting a contract of insurance and 36239
arising out of it; 36240

(6) Doing any kind of business recognized as constituting the 36241
doing of an insurance business under Title XXXIX of the Revised 36242
Code or subject to regulation by the superintendent of insurance 36243
under the laws of this state relating to insurance. 36244

Any such act shall be considered to be the doing of an 36245
insurance business in this state by such insurer, person, or agent 36246
and shall be its agreement that service of any lawful subpoena, 36247
notice, order, or process is of the same legal force and validity 36248
as personal service of the subpoena, notice, order, or process in 36249
this state upon the insurer, person, or agent. 36250

(C) Service of process in judicial proceedings shall be as 36251
provided by the Rules of Civil Procedure. Service in or out of 36252
this state of notice, orders, or subpoenas in administrative 36253
proceedings before the superintendent shall be as provided in 36254
section 3901.04 of the Revised Code. 36255

(D) Service of any notice, order, subpoena, or process in any 36256
such action, suit, or proceeding shall, in addition to the manner 36257
provided in division (C) of this section, be valid if served upon 36258
any person within this state who, in this state on behalf of such 36259
insurer, person, or agent is or has been: 36260

(1) Soliciting, procuring, effecting, or negotiating for 36261
insurance; 36262

(2) Making, issuing, or delivering any contract of insurance;	36263
(3) Collecting or receiving any premium, membership fees, assessment, dues, or other consideration for insurance;	36264 36265
(4) Disseminating information as to coverage or rates, forwarding applications, inspecting risks, fixing rates, investigating or adjusting claims or losses, or transacting any matters subsequent to effecting a contract of insurance and arising out of it.	36266 36267 36268 36269 36270
(E) Nothing in this section shall limit or abridge the right to serve any subpoena, order, process, notice, or demand upon any insurer, person, or agent in any other manner permitted by law.	36271 36272 36273
(F) Every person investigating or adjusting any loss or claim under a policy of insurance not excepted under division (I) of this section and issued by any such insurer and covering a subject of insurance that was resident, located, or to be performed in this state at the time of issuance shall immediately report the policy to the superintendent.	36274 36275 36276 36277 36278 36279
(G) Each such insurer that does any of the acts set forth in division (B) of this section in this state by mail or otherwise shall be subject to a tax of five per cent on the gross premiums, membership fees, assessments, dues, and other considerations received on all contracts of insurance covering subjects of insurance resident, located, or to be performed within this state. Such insurer shall annually, on or before the first day of July, pay such tax to the treasurer of state, as calculated on a form prescribed by the treasurer of state. If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. The treasurer of state shall	36280 36281 36282 36283 36284 36285 36286 36287 36288 36289 36290 36291 36292 36293

determine and report all claims for penalties and interest 36294
accruing under this section to the attorney general for 36295
collection. 36296

For purposes of this division, payment is considered made 36297
when it is received by the treasurer of state, irrespective of any 36298
United States postal service marking or other stamp or mark 36299
indicating the date on which the payment may have been mailed. 36300

(H) No contract of insurance effected in this state by mail 36301
or otherwise by any such insurer is enforceable by the insurer. 36302

(I) This section does not apply to: 36303

(1) Insurance obtained pursuant to sections 3905.30 to 36304
3905.36 of the Revised Code; 36305

(2) The transaction of reinsurance by insurers; 36306

(3) Transactions in this state involving a policy solicited, 36307
written, and delivered outside this state covering only subjects 36308
of insurance not resident, located, or to be performed in this 36309
state at the time of issuance, provided such transactions are 36310
subsequent to the issuance of the policy; 36311

(4) Transactions in this state involving a policy of group 36312
life or group accident and sickness insurance solicited, written, 36313
and delivered outside this state; 36314

(5) Transactions involving contracts of insurance 36315
independently procured through negotiations occurring entirely 36316
outside this state which are reported to the superintendent and 36317
with respect to which the tax provided by section 3905.36 of the 36318
Revised Code is paid; 36319

(6) An attorney at law acting on behalf of the attorney's 36320
clients in the adjustment of claims or losses; 36321

(7) ~~Any~~ Except as provided in division (G) of this section, 36322
any insurance company underwriter issuing contracts of insurance 36323

to employer insureds or contracts of insurance issued to an 36324
employer insured. For purposes of this section, an "employer 36325
insured" is an insured to whom all of the following apply: 36326

(a) The insured procures the insurance of any risk or risks 36327
by use of the services of a full-time employee acting as an 36328
insurance manager or buyer or the services of a regularly and 36329
continuously qualified insurance consultant. As used in division 36330
(I)(7)(a) of this section, a "regularly and continuously qualified 36331
insurance consultant" does not include any person licensed under 36332
Chapter 3905. of the Revised Code. 36333

(b) The insured's aggregate annual premiums for insurance on 36334
all risks total at least twenty-five thousand dollars; and 36335

(c) The insured has at least twenty-five full-time employees. 36336

(8) Ocean marine insurance. 36337

Sec. 3901.78. ~~Upon the filing of each of its annual 36338
statements, or as soon thereafter as practicable, the 36339
superintendent of insurance shall issue to each insurance company 36340
or association authorized to do business in this state but not 36341
incorporated under the laws of this state a certificate of 36342
compliance, an original of which must be published in accordance 36343
with section 3901.781 of the Revised Code in every county where 36344
the insurance company or association has an agency. Upon request 36345
or in any other circumstance that the superintendent of insurance 36346
determines to be appropriate, the superintendent may issue ~~either~~ 36347
certificates of compliance, ~~which certificates are not subject to~~ 36348
~~section 3901.781 of the Revised Code,~~ to insurance companies and 36349
associations authorized to do business in this state. ~~Certificates~~ 36350
~~of compliance either must, which shall~~ be on either forms 36351
established by the national association of insurance commissioners 36352
or on such other forms as the superintendent may prescribe. 36353~~

Sec. 3903.14. (A) The superintendent of insurance as 36354
rehabilitator may appoint one or more special deputies, who shall 36355
have all the powers and responsibilities of the rehabilitator 36356
granted under this section, and the superintendent may employ such 36357
clerks and assistants as considered necessary. The compensation of 36358
the special deputies, clerks, and assistants and all expenses of 36359
taking possession of the insurer and of conducting the proceedings 36360
shall be fixed by the superintendent, with the approval of the 36361
court and shall be paid out of the funds or assets of the insurer. 36362
The persons appointed under this section shall serve at the 36363
pleasure of the superintendent. In the event that the property of 36364
the insurer does not contain sufficient cash or liquid assets to 36365
defray the costs incurred, the superintendent may advance the 36366
costs so incurred out of any appropriation for the maintenance of 36367
the department of insurance. Any amounts so advanced for expenses 36368
of administration shall be repaid to the superintendent for the 36369
use of the department out of the first available money of the 36370
insurer. 36371

(B) The rehabilitator may take such action as ~~he~~ the 36372
rehabilitator considers necessary or appropriate to reform and 36373
revitalize the insurer. ~~He~~ The rehabilitator shall have all the 36374
powers of the directors, officers, and managers, whose authority 36375
shall be suspended, except as they are redelegated by the 36376
rehabilitator. ~~He~~ The rehabilitator shall have full power to 36377
direct and manage, to hire and discharge employees subject to any 36378
contract rights they may have, and to deal with the property and 36379
business of the insurer. 36380

(C) If it appears to the rehabilitator that there has been 36381
criminal or tortious conduct, or breach of any contractual or 36382
fiduciary obligation detrimental to the insurer by any officer, 36383
manager, agent, director, trustee, broker, employee, or other 36384

person, ~~he~~ the rehabilitator may pursue all appropriate legal remedies on behalf of the insurer. 36385
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(D) If the rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the insurer is appropriate, ~~he~~ the rehabilitator shall prepare a plan to effect such changes. Upon application of the rehabilitator for approval of the plan, and after such notice and hearings as the court may prescribe, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified. Any plan approved under this section shall be, in the judgment of the court, fair and equitable to all parties concerned. If the plan is approved, the rehabilitator shall carry out the plan. In the case of a life insurer, the plan proposed may include the imposition of liens upon the policies of the company, if all rights of shareholders are first relinquished. 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. 36387
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(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. 36403
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(F) The rehabilitator shall have the power under sections 3903.26 and 3903.27 of the Revised Code to avoid fraudulent transfers. 36412
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(G) As used in this section: 36415

(1) "Contracted provider" means a provider with a contract with a medicaid health insuring corporation to provide covered health care services to medicaid recipients. 36416
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(2) "Medicaid recipient" means a person eligible for assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code. 36419
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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: 36422
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(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; 36425
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(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. 36431
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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: 36437
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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; 36441
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(2) After payments are made under division (B)(1) of this 36445

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. 36446
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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. 36450
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(D) As used in this section: 36457

(1) "Contracted provider" means a provider with a contract with a medicaid health insuring corporation to provide covered health care services to medicaid recipients. 36458
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(2) "Medicaid recipient" means a person eligible for assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code. 36461
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Sec. 3905.04. (A) Except as otherwise provided in section 3905.041 of the Revised Code, a resident individual applying for an insurance agent license for any of the lines of authority described in division (B) of this section shall take a written examination. The examination shall test the knowledge of the individual with respect to the lines of authority for which application is made, the duties and responsibilities of an insurance agent, and the insurance laws of this state. Before admission to the examination, each individual shall pay the nonrefundable fee required under division ~~(D)~~(C) of section 3905.40 of the Revised Code. 36464
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(B) The examination described in division (A) of this section 36475

shall be required for the following lines of authority: 36476

(1) Any of the lines of authority set forth in divisions 36477
(B)(1) to (6) of section 3905.06 of the Revised Code; 36478

(2) Title insurance; 36479

(3) Surety bail bonds as provided in sections 3905.83 to 36480
3905.95 of the Revised Code; 36481

(4) Any other line of authority designated by the 36482
superintendent of insurance. 36483

(C) An individual shall not be permitted to take the 36484
examination described in division (A) of this section unless one 36485
or both of the following apply: 36486

(1) The individual has earned a bachelor's or associate's 36487
degree in insurance from an accredited institution. 36488

(2) The individual has completed, for each line of authority 36489
for which the individual has applied, twenty hours of study in a 36490
program of insurance education approved by the superintendent, in 36491
consultation with the insurance agent education advisory council, 36492
under criteria established by the superintendent. Division (C) of 36493
this section does not apply with respect to title insurance or any 36494
other line of authority designated by the superintendent. 36495

(D) An individual who fails to appear for an examination as 36496
scheduled, or fails to pass an examination, may reapply for the 36497
examination if the individual pays the required fee and submits 36498
any necessary forms prior to being rescheduled for the 36499
examination. 36500

(E)(1) The superintendent may, in accordance with Chapter 36501
119. of the Revised Code, adopt any rule necessary for the 36502
implementation of this section. 36503

(2) The superintendent may make any necessary arrangements, 36504
including contracting with an outside testing service, for the 36505

administration of the examinations and the collection of the fees 36506
required by this section. 36507

Sec. 3905.36. Every insured association, company, 36508
corporation, or other person that enters, directly or indirectly, 36509
into any agreements with any insurance company, association, 36510
individual, firm, underwriter, or Lloyd, not authorized to do 36511
business in this state, whereby the insured shall procure, 36512
continue, or renew contracts of insurance covering subjects of 36513
insurance resident, located, or to be performed within this state, 36514
with such unauthorized insurance company, association, individual, 36515
firm, underwriter, or Lloyd, for which insurance there is a gross 36516
premium, membership fee, assessment, dues, or other consideration 36517
charged or collected, shall annually, on or before the 36518
thirty-first day of January, return to the superintendent of 36519
insurance a statement under oath showing the name and address of 36520
the insured, name and address of the insurer, subject of the 36521
insurance, general description of the coverage, and amount of 36522
gross premium, fee, assessment, dues, or other consideration for 36523
such insurance for the preceding twelve-month period and shall at 36524
the same time pay to the treasurer of state a tax of five per cent 36525
of such gross premium, fee, assessment, dues, or other 36526
consideration, after a deduction for return premium, if any, as 36527
calculated on a form prescribed by the treasurer of state. All 36528
taxes collected under this section by the treasurer of state shall 36529
be paid into the general revenue fund. If the tax is not paid when 36530
due, the tax shall be increased by a penalty of twenty-five per 36531
cent. An interest charge computed as set forth in section 5725.221 36532
of the Revised Code shall be made on the entire sum of the tax 36533
plus penalty, which interest shall be computed from the date the 36534
tax is due until it is paid. For purposes of this section, payment 36535
is considered made when it is received by the treasurer of state, 36536
irrespective of any United States postal service marking or other 36537

stamp or mark indicating the date on which the payment may have
been mailed. This section does not apply to:

(A) Insurance obtained pursuant to sections 3905.30 to
3905.35 of the Revised Code;

(B) Transactions in this state involving a policy solicited,
written, and delivered outside this state covering only subjects
of insurance not resident, located, or to be performed in this
state at the time of issuance, provided such transactions are
subsequent to the issuance of the policy;

(C) Attorneys-at-law acting on behalf of their clients in the
adjustment of claims or losses;

~~(D) Any insurance company underwriter issuing contracts of
insurance to employer insureds or contracts of insurance issued to
an employer insured. For purposes of this section an "employer
insured" is an insured;~~

~~(1) Who procures the insurance of any risk or risks by use of
the services of a full time employee acting as an insurance
manager or buyer or the services of a regularly and continuously
qualified insurance consultant. As used in division (D)(1) of this
section, a "regularly and continuously qualified insurance
consultant" does not include any person licensed under Chapter
3905. of the Revised Code.~~

~~(2) Whose aggregate annual premiums for insurance on all
risks total at least twenty five thousand dollars; and~~

~~(3) Who has at least twenty five full time employees.~~

Each person licensed under section 3905.30 of the Revised
Code shall pay to the treasurer of state, on or before the
thirty-first day of January of each year, five per cent of the
balance of the gross premiums charged for insurance placed or
procured under the license after a deduction for return premiums,

as reported on a form prescribed by the treasurer of state. The 36568
tax shall be collected from the insured by the surplus line broker 36569
who placed or procured the policy of insurance at the time the 36570
policy is delivered to the insured. No license issued under 36571
section 3905.30 of the Revised Code shall be renewed until payment 36572
is made. If the tax is not paid when due, the tax shall be 36573
increased by a penalty of twenty-five per cent. An interest charge 36574
computed as set forth in section 5725.221 of the Revised Code 36575
shall be made on the entire sum of the tax plus penalty, which 36576
interest shall be computed from the date the tax is due until it 36577
is paid. For purposes of this section, payment is considered made 36578
when it is received by the treasurer of state, irrespective of any 36579
United States postal service marking or other stamp or mark 36580
indicating the date on which the payment may have been mailed. 36581

Sec. 3905.40. There shall be paid to the superintendent of 36582
insurance the following fees: 36583

(A) Each insurance company doing business in this state shall 36584
pay: 36585

(1) For filing a copy of its charter or deed of settlement, 36586
two hundred fifty dollars; 36587

(2) For filing each statement, ~~twenty-five~~ one hundred
seventy-five dollars; 36588
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(3) For each certificate of authority or license, one hundred
seventy-five, and for each certified copy thereof, five dollars; 36590
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(4) For each copy of a paper filed in the superintendent's 36592
office, twenty cents per page; 36593

(5) For issuing certificates of deposits or certified copies 36594
thereof, five dollars for the first certificate or copy and one 36595
dollar for each additional certificate or copy; 36596

(6) For issuing certificates of compliance or certified 36597

copies thereof, ~~twenty~~ sixty dollars; 36598

(7) For affixing the seal of office and certifying documents, 36599
other than those enumerated herein, two dollars. 36600

(B) Each domestic life insurance company doing business in 36601
this state shall pay for annual valuation of its policies, one 36602
cent on every one thousand dollars of insurance. 36603

(C) ~~Each foreign insurance company doing business in this~~ 36604
~~state shall pay for making and forwarding annually, semiannually,~~ 36605
~~and quarterly the interest checks and coupons accruing upon bonds~~ 36606
~~and securities deposited, fifty dollars each year on each one~~ 36607
~~hundred thousand dollars deposited.~~ 36608

~~(D)~~ Each applicant for licensure as an insurance agent shall 36609
pay ten dollars before admission to any examination required by 36610
the superintendent. Such fee shall not be paid by the appointing 36611
insurance company. 36612

~~(E)~~(D) Each domestic mutual life insurance company shall pay 36613
for verifying that any amendment to its articles of incorporation 36614
was regularly adopted, two hundred fifty dollars with each 36615
application for verification. Any such amendment shall be 36616
considered to have been regularly adopted when approved by the 36617
affirmative vote of two-thirds of the policyholders present in 36618
person or by proxy at any annual meeting of policyholders or at a 36619
special meeting of policyholders called for that purpose. 36620

Sec. 3923.27. No policy of sickness and accident insurance 36621
delivered, issued for delivery, or renewed in this state after ~~the~~ 36622
~~effective date of this section~~ August 26, 1976, including both 36623
individual and group policies, that provides hospitalization 36624
coverage for mental illness shall exclude such coverage for the 36625
reason that the insured is hospitalized in an institution or 36626
facility receiving tax support from the state, any municipal 36627

corporation, county, or joint county board, whether such 36628
institution or facility is deemed charitable or otherwise, 36629
provided the institution or facility or portion thereof is fully 36630
accredited by the joint commission on accreditation of hospitals 36631
or certified under Titles XVIII and XIX of the "Social Security 36632
Act of 1935," 79 Stat. 291, 42 U.S.C.A. 1395, as amended. The 36633
insurance coverage shall provide payment amounting to the lesser 36634
of either the full amount of the statutory charge for the cost of 36635
the services pursuant to ~~division (B)(8) of section 5121.04~~ 36636
section 5121.33 of the Revised Code or the benefits payable for 36637
the services under the applicable insurance policy. Insurance 36638
benefits for the coverage shall be paid so long as patients and 36639
their liable relatives retain their statutory liability pursuant 36640
to ~~the requirements of sections 5121.01 to 5121.10~~ section 5121.33 36641
of the Revised Code. Only that portion or per cent of the benefits 36642
shall be payable that has been assigned, or ordered to be paid, to 36643
the state or other appropriate provider for services rendered by 36644
the institution or facility. 36645

Sec. 4112.12. (A) There is hereby created the commission on 36646
African-American males, which shall consist of not more than 36647
forty-one members as follows: the directors or their designees of 36648
the departments of health, development, alcohol and drug addiction 36649
services, job and family services, rehabilitation and correction, 36650
mental health, and youth services; the adjutant general or the 36651
adjutant general's designee; the equal employment opportunity 36652
officer of the department of administrative services or the equal 36653
employment opportunity officer's designee; the executive director 36654
or the executive director's designee of the Ohio civil rights 36655
commission; the executive director or the executive director's 36656
designee of the office division of criminal justice services in 36657
the department of public safety; the superintendent of public 36658
instruction; the chancellor or the chancellor's designee of the 36659

Ohio board of regents; two members of the house of representatives 36660
appointed by the speaker of the house of representatives; three 36661
members of the senate appointed by the president of the senate; 36662
and not more than twenty-three members appointed by the governor. 36663
The members appointed by the governor shall include an additional 36664
member of the governor's cabinet and at least one representative 36665
of each of the following: the national association for the 36666
advancement of colored people; the urban league; an organization 36667
representing black elected officials; an organization representing 36668
black attorneys; the black religious community; the black business 36669
community; the nonminority business community; and organized 36670
labor; at least one black medical doctor, one black elected member 36671
of a school board, and one black educator; and at least two 36672
representatives of local private industry councils. The remaining 36673
members that may be appointed by the governor shall be selected 36674
from elected officials, civic and community leaders, and 36675
representatives of the employment, criminal justice, education, 36676
and health communities. 36677

(B) Terms of office shall be for three years, with each term 36678
ending on the same day of the same month as did the term that it 36679
succeeds. Each member shall hold office from the date of 36680
appointment until the end of the term for which the member was 36681
appointed. Members may be reappointed. Vacancies shall be filled 36682
in the manner provided for original appointments. Any member 36683
appointed to fill a vacancy occurring prior to the expiration date 36684
of the term for which the member's predecessor was appointed shall 36685
hold office as a member for the remainder of that term. A member 36686
shall continue in office subsequent to the expiration date of the 36687
member's term until the member's successor takes office or until a 36688
period of sixty days has elapsed, whichever occurs first. 36689

The commission annually shall elect a chairperson from among 36690
its members. 36691

(C) Members of the commission and members of subcommittees 36692
appointed under division (B) of section 4112.13 of the Revised 36693
Code shall not be compensated, but shall be reimbursed for their 36694
necessary and actual expenses incurred in the performance of their 36695
official duties. 36696

(D)(1) The Ohio civil rights commission shall serve as the 36697
commission on African-American males' fiscal agent and shall 36698
perform all of the following services: 36699

(a) Prepare and process payroll and other personnel documents 36700
that the commission on African-American males approves; 36701

(b) Maintain ledgers of accounts and reports of account 36702
balances, and monitor budgets and allotment plans in consultation 36703
with the commission on African-American males; 36704

(c) Perform other routine support services that the executive 36705
director of the Ohio civil rights commission or the executive 36706
director's designee and the Commission on African-American males 36707
or its designee consider appropriate to achieve efficiency. 36708

(2) The Ohio civil rights commission shall not approve any 36709
payroll or other personnel-related documents or any biennial 36710
budget, grant, expenditure, audit, or fiscal-related document 36711
without the advice and consent of the commission on 36712
African-American males. 36713

(3) The Ohio civil rights commission shall determine fees to 36714
be charged to the commission on African-American males for 36715
services performed under this division, which shall be in 36716
proportion to the services performed for the commission on 36717
African-American males. 36718

(4) The commission on African-American males or its designee 36719
has: 36720

(a) Sole authority to draw funds for any federal program in 36721

which the commission is authorized to participate; 36722

(b) Sole authority to expend funds from accounts for programs 36723
and any other necessary expenses the commission on 36724
African-American males may incur; 36725

(c) The duty to cooperate with the Ohio civil rights 36726
commission to ensure that the Ohio civil rights commission is 36727
fully apprised of all financial transactions. 36728

(E) The commission on African-American males shall appoint an 36729
executive director, who shall be in the unclassified civil 36730
service. The executive director shall supervise the commission's 36731
activities and report to the commission on the progress of those 36732
activities. The executive director shall do all things necessary 36733
for the efficient and effective implementation of the duties of 36734
the commission. 36735

The responsibilities assigned to the executive director do 36736
not relieve the members of the commission from final 36737
responsibility for the proper performance of the requirements of 36738
this division. 36739

(F) The commission on African-American males shall: 36740

(1) Employ, promote, supervise, and remove all employees, as 36741
needed, in connection with the performance of its duties under 36742
this section; 36743

(2) Maintain its office in Columbus; 36744

(3) Acquire facilities, equipment, and supplies necessary to 36745
house the commission, its employees, and files and records under 36746
its control, and to discharge any duty imposed upon it by law. The 36747
expense of these acquisitions shall be audited and paid for in the 36748
same manner as other state expenses. 36749

(4) Prepare and submit to the office of budget and management 36750
a budget for each biennium in accordance with sections 101.55 and 36751

107.03 of the Revised Code. The budget submitted shall cover the 36752
costs of the commission and its staff in the discharge of any duty 36753
imposed upon the commission by law. The commission shall pay its 36754
own payroll and other operating expenses from appropriation items 36755
designated by the general assembly. The commission shall not 36756
delegate any authority to obligate funds. 36757

(5) Establish the overall policy and management of the 36758
commission in accordance with this chapter; 36759

(6) Follow all state procurement requirements; 36760

(7) Pay fees owed to the Ohio civil rights commission under 36761
division (D) of this section from the commission on 36762
African-American males' general revenue fund or from any other 36763
fund from which the operating expenses of the commission on 36764
African-American males are paid. Any amounts set aside for a 36765
fiscal year for the payment of such fees shall be used only for 36766
the services performed for the commission on African-American 36767
males by the Ohio civil rights commission in that fiscal year. 36768

(G) The commission on African-American males may: 36769

(1) Hold sessions at any place within the state; 36770

(2) Establish, change, or abolish positions, and assign and 36771
reassign duties and responsibilities of any employee of the 36772
commission on African-American males as necessary to achieve the 36773
most efficient performance of its functions. 36774

Sec. 4117.03. (A) Public employees have the right to: 36775

(1) Form, join, assist, or participate in, or refrain from 36776
forming, joining, assisting, or participating in, except as 36777
otherwise provided in Chapter 4117. of the Revised Code, any 36778
employee organization of their own choosing; 36779

(2) Engage in other concerted activities for the purpose of 36780

collective bargaining or other mutual aid and protection; 36781

(3) Representation by an employee organization; 36782

(4) Bargain collectively with their public employers to 36783
determine wages, hours, terms and other conditions of employment 36784
and the continuation, modification, or deletion of an existing 36785
provision of a collective bargaining agreement, and enter into 36786
collective bargaining agreements; 36787

(5) Present grievances and have them adjusted, without the 36788
intervention of the bargaining representative, as long as the 36789
adjustment is not inconsistent with the terms of the collective 36790
bargaining agreement then in effect and as long as the bargaining 36791
representatives have the opportunity to be present at the 36792
adjustment. 36793

(B) Persons on active duty or acting in any capacity as 36794
members of the organized militia do not have collective bargaining 36795
rights. 36796

(C) Except as provided in division (D) of this section, 36797
nothing in Chapter 4117. of the Revised Code prohibits public 36798
employers from electing to engage in collective bargaining, to 36799
meet and confer, to hold discussions, or to engage in any other 36800
form of collective negotiations with public employees who are not 36801
subject to Chapter 4117. of the Revised Code pursuant to division 36802
(C) of section 4117.01 of the Revised Code. 36803

(D) A public employer shall not engage in collective 36804
bargaining or other forms of collective negotiations with the 36805
employees of county boards of elections referred to in division 36806
(C)(12) of section 4117.01 of the Revised Code. 36807

(E)(1) Employees of public school may bargain collectively 36808
for life and health care benefits; however, all life and health 36809
care benefits shall be provided through school employees health 36810

care board life and medical plans, in accordance with section 36811
9.901 of the Revised Code. If a school district provides its 36812
employees with life or health care benefits pursuant to collective 36813
bargaining, the employees shall be permitted to choose a plan 36814
option from among the school employees health care board plans 36815
agreed to during collective bargaining. 36816

(2) During collective bargaining, employees of public schools 36817
may agree to pay a higher percentage of the premium for life and 36818
health benefit coverage under the plans designed by the school 36819
employees health care board pursuant to section 9.901 of the 36820
Revised Code than the percentage designated as the employees' 36821
contribution level by the board. A collective bargaining 36822
agreement, however, shall not permit the employees to contribute a 36823
lesser percentage of the premium than that set as the employees' 36824
contribution level by the school employees health care board. The 36825
total premium paid by the participating school board to the school 36826
employees health care board for coverage under any of the board's 36827
life and health benefit plans shall not be affected by the 36828
collective bargaining agreement. 36829

Sec. 4117.08. (A) All matters pertaining to wages, hours, or 36830
terms and other conditions of employment and the continuation, 36831
modification, or deletion of an existing provision of a collective 36832
bargaining agreement are subject to collective bargaining between 36833
the public employer and the exclusive representative, except as 36834
otherwise specified in this section and division (E) of section 36835
4117.03 of the Revised Code. 36836

(B) The conduct and grading of civil service examinations, 36837
the rating of candidates, the establishment of eligible lists from 36838
the examinations, and the original appointments from the eligible 36839
lists are not appropriate subjects for collective bargaining. 36840

(C) Unless a public employer agrees otherwise in a collective 36841

bargaining agreement, nothing in Chapter 4117. of the Revised Code	36842
impairs the right and responsibility of each public employer to:	36843
(1) Determine matters of inherent managerial policy which	36844
include, but are not limited to areas of discretion or policy such	36845
as the functions and programs of the public employer, standards of	36846
services, its overall budget, utilization of technology, and	36847
organizational structure;	36848
(2) Direct, supervise, evaluate, or hire employees;	36849
(3) Maintain and improve the efficiency and effectiveness of	36850
governmental operations;	36851
(4) Determine the overall methods, process, means, or	36852
personnel by which governmental operations are to be conducted;	36853
(5) Suspend, discipline, demote, or discharge for just cause,	36854
or lay off, transfer, assign, schedule, promote, or retain	36855
employees;	36856
(6) Determine the adequacy of the work force;	36857
(7) Determine the overall mission of the employer as a unit	36858
of government;	36859
(8) Effectively manage the work force;	36860
(9) Take actions to carry out the mission of the public	36861
employer as a governmental unit.	36862
The employer is not required to bargain on subjects reserved	36863
to the management and direction of the governmental unit except as	36864
affect wages, hours, terms and conditions of employment, and the	36865
continuation, modification, or deletion of an existing provision	36866
of a collective bargaining agreement. A public employee or	36867
exclusive representative may raise a legitimate complaint or file	36868
a grievance based on the collective bargaining agreement.	36869
Sec. 4117.24. The training and , publications, <u>and grants</u> fund	36870

is hereby created in the state treasury. The state employment 36871
relations board shall deposit into the training ~~and~~, publications, 36872
and grants fund all ~~payments~~ moneys received from the following 36873
sources: 36874

(A) Payments received by the board for copies of documents, 36875
rulebooks, and other publications; ~~fees~~ 36876

(B) Fees received from seminar participants; ~~and receipts~~ 36877

(C) Receipts from the sale of clearinghouse data; 36878

(D) Moneys received from grants, donations, awards, bequests, 36879
gifts, reimbursements, and similar funds; 36880

(E) Reimbursement received for professional services and 36881
expenses related to professional services; 36882

(F) Funds received to support the development of labor 36883
relations services and programs. The state employment relations 36884
board shall use all moneys deposited into the training ~~and~~, 36885
publications, and grants fund to defray the costs of furnishing 36886
and making available copies of documents, rulebooks, and other 36887
publications; the costs of planning, organizing, and conducting 36888
training seminars; the costs associated with grant projects, 36889
innovative labor-management cooperation programs, research 36890
projects related to these grants and programs, and the advancement 36891
in professionalism of public sector relations; the professional 36892
development of board employees; and the costs of compiling 36893
clearinghouse data. 36894

The board may seek, solicit, apply for, receive, and accept 36895
grants, gifts, and contributions of money, property, labor, and 36896
other things of value to be held for, used for, and applied to 36897
only the purpose for which the grants, gifts, and contributions 36898
are made, from individuals, private and public corporations, the 36899
United States or any agency thereof, the state or any agency 36900
thereof, and any political subdivision of the state, and may enter 36901

into any contract with any such public or private source in 36902
connection therewith to be held for, used for, and applied to only 36903
the purposes for which such grants are made and contracts are 36904
entered into, all subject to and in accordance with the purposes 36905
of this chapter. Any money received from the grants, gifts, 36906
contributions, or contracts shall be deposited into the training, 36907
publications, and grants fund. 36908

Sec. 4123.27. Information contained in the annual statement 36909
provided for in section 4123.26 of the Revised Code, and such 36910
other information as may be furnished to the bureau of workers' 36911
compensation by employers in pursuance of that section, is for the 36912
exclusive use and information of the bureau in the discharge of 36913
its official duties, and shall not be open to the public nor be 36914
used in any court in any action or proceeding pending therein 36915
unless the bureau is a party to the action or proceeding; but the 36916
information contained in the statement may be tabulated and 36917
published by the bureau in statistical form for the use and 36918
information of other state departments and the public. No person 36919
in the employ of the bureau, except those who are authorized by 36920
the administrator of workers' compensation, shall divulge any 36921
information secured by the person while in the employ of the 36922
bureau in respect to the transactions, property, claim files, 36923
records, or papers of the bureau or in respect to the business or 36924
mechanical, chemical, or other industrial process of any company, 36925
firm, corporation, person, association, partnership, or public 36926
utility to any person other than the administrator or to the 36927
superior of such employee of the bureau. 36928

Notwithstanding the restrictions imposed by this section, the 36929
governor, select or standing committees of the general assembly, 36930
the auditor of state, the attorney general, or their designees, 36931
pursuant to the authority granted in this chapter and Chapter 36932

4121. of the Revised Code, may examine any records, claim files, 36933
or papers in possession of the industrial commission or the 36934
bureau. They also are bound by the privilege that attaches to 36935
these papers. 36936

The administrator shall report to the director of job and 36937
family services or to the county director of job and family 36938
services the name, address, and social security number or other 36939
identification number of any person receiving workers' 36940
compensation whose name or social security number or other 36941
identification number is the same as that of a person required by 36942
a court or child support enforcement agency to provide support 36943
payments to a recipient or participant of public assistance, and 36944
whose name is submitted to the administrator by the director under 36945
section 5101.36 of the Revised Code. The administrator also shall 36946
inform the director of the amount of workers' compensation paid to 36947
the person during such period as the director specifies. 36948

Within fourteen days after receiving from the director of job 36949
and family services a list of the names and social security 36950
numbers of recipients or participants of public assistance 36951
pursuant to section 5101.181 of the Revised Code, the 36952
administrator shall inform the auditor of state of the name, 36953
current or most recent address, and social security number of each 36954
person receiving workers' compensation pursuant to this chapter 36955
whose name and social security number are the same as that of a 36956
person whose name or social security number was submitted by the 36957
director. The administrator also shall inform the auditor of state 36958
of the amount of workers' compensation paid to the person during 36959
such period as the director specifies. 36960

The bureau and its employees, except for purposes of 36961
furnishing the auditor of state with information required by this 36962
section, shall preserve the confidentiality of recipients or 36963
participants of public assistance in compliance with division (A) 36964

of section 5101.181 of the Revised Code. 36965

For the purposes of this section, "public assistance" means 36966
medical assistance provided through the medical assistance program 36967
established under section 5111.01 of the Revised Code, Ohio works 36968
first provided under Chapter 5107. of the Revised Code, 36969
prevention, retention, and contingency benefits and services 36970
provided under Chapter 5108. of the Revised Code, or disability 36971
financial assistance provided under Chapter 5115. of the Revised 36972
Code, ~~or disability medical assistance provided under Chapter~~ 36973
~~5115. of the Revised Code.~~ 36974

Sec. 4141.29. Each eligible individual shall receive benefits 36975
as compensation for loss of remuneration due to involuntary total 36976
or partial unemployment in the amounts and subject to the 36977
conditions stipulated in this chapter. 36978

(A) No individual is entitled to a waiting period or benefits 36979
for any week unless the individual: 36980

(1) Has filed a valid application for determination of 36981
benefit rights in accordance with section 4141.28 of the Revised 36982
Code; 36983

(2) Has made a claim for benefits in accordance with section 36984
4141.28 of the Revised Code; 36985

(3) Has registered at an employment office or other 36986
registration place maintained or designated by the director of job 36987
and family services. Registration shall be made in accordance with 36988
the time limits, frequency, and manner prescribed by the director. 36989

(4)(a)(i) Is able to work and available for suitable work 36990
and, except as provided in division (A)(4)(a)(ii) of this section, 36991
is actively seeking suitable work either in a locality in which 36992
the individual has earned wages subject to this chapter during the 36993
individual's base period, or if the individual leaves that 36994

locality, then in a locality where suitable work normally is performed. 36995
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(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: 36997
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(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; 37000
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(II) The individual has been laid off and the employer who laid the individual off has notified the director within ten days after the layoff, that work is expected to be available for the individual within a specified number of days not to exceed forty-five calendar days following the last day the individual worked. In the event the individual is not recalled within the specified period, this waiver shall cease to be operative with respect to that layoff. 37007
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(b) The individual shall be instructed as to the efforts that the individual must make in the search for suitable work, except where the active search for work requirement has been waived under division (A)(4)(a) of this section, and shall keep a record of where and when the individual has sought work in complying with those instructions and, upon request, shall produce that record for examination by the director. 37015
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(c) An individual who is attending a training course approved by the director meets the requirement of this division, if attendance was recommended by the director and the individual is regularly attending the course and is making satisfactory 37022
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progress. An individual also meets the requirements of this 37026
division if the individual is participating and advancing in a 37027
training program, as defined in division (P) of section 5709.61 of 37028
the Revised Code, and if an enterprise, defined in division (B) of 37029
section 5709.61 of the Revised Code, is paying all or part of the 37030
cost of the individual's participation in the training program 37031
with the intention of hiring the individual for employment as a 37032
new employee, as defined in division (L) of section 5709.61 of the 37033
Revised Code, for at least ninety days after the individual's 37034
completion of the training program. 37035

(d) An individual who becomes unemployed while attending a 37036
regularly established school and whose base period qualifying 37037
weeks were earned in whole or in part while attending that school, 37038
meets the availability and active search for work requirements of 37039
division (A)(4)(a) of this section if the individual regularly 37040
attends the school during weeks with respect to which the 37041
individual claims unemployment benefits and makes self available 37042
on any shift of hours for suitable employment with the 37043
individual's most recent employer or any other employer in the 37044
individual's base period, or for any other suitable employment to 37045
which the individual is directed, under this chapter. 37046

(e) The director shall adopt any rules that the director 37047
deems necessary for the administration of division (A)(4) of this 37048
section. 37049

(f) Notwithstanding any other provisions of this section, no 37050
otherwise eligible individual shall be denied benefits for any 37051
week because the individual is in training approved under section 37052
236(a)(1) of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 37053
2296, nor shall that individual be denied benefits by reason of 37054
leaving work to enter such training, provided the work left is not 37055
suitable employment, or because of the application to any week in 37056
training of provisions in this chapter, or any applicable federal 37057

unemployment compensation law, relating to availability for work, 37058
active search for work, or refusal to accept work. 37059

For the purposes of division (A)(4)(f) of this section, 37060
"suitable employment" means with respect to an individual, work of 37061
a substantially equal or higher skill level than the individual's 37062
past adversely affected employment, as defined for the purposes of 37063
the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, and 37064
wages for such work at not less than eighty per cent of the 37065
individual's average weekly wage as determined for the purposes of 37066
that federal act. 37067

(5) Is unable to obtain suitable work. An individual who is 37068
provided temporary work assignments by the individual's employer 37069
under agreed terms and conditions of employment, and who is 37070
required pursuant to those terms and conditions to inquire with 37071
the individual's employer for available work assignments upon the 37072
conclusion of each work assignment, is not considered unable to 37073
obtain suitable employment if suitable work assignments are 37074
available with the employer but the individual fails to contact 37075
the employer to inquire about work assignments. 37076

(6) Participates in reemployment services, such as job search 37077
assistance services, if the individual has been determined to be 37078
likely to exhaust benefits under this chapter, including 37079
compensation payable pursuant to 5 U.S.C.A. Chapter 85, other than 37080
extended compensation, and needs reemployment services pursuant to 37081
the profiling system established by the director under division 37082
(K) of this section, unless the director determines that: 37083

(a) The individual has completed such services; or 37084

(b) There is justifiable cause for the claimant's failure to 37085
participate in such services. 37086

(B) An individual suffering total or partial unemployment is 37087
eligible for benefits for unemployment occurring subsequent to a 37088

waiting period of one week and no benefits shall be payable during 37089
this required waiting period, except when the unemployment during 37090
this waiting period is directly attributable to a major disaster 37091
declared by the president of the United States pursuant to the 37092
"Disaster Relief Act of 1974," 88 Stat. 143, 42 U.S.C. 5121. Not 37093
more than one week of waiting period shall be required of any 37094
individual in any benefit year in order to establish the 37095
individual's eligibility for total or partial unemployment 37096
benefits. 37097

(C) The waiting period for total or partial unemployment 37098
shall commence on the first day of the first week with respect to 37099
which the individual first files a claim for benefits at an 37100
employment office or other place of registration maintained or 37101
designated by the director or on the first day of the first week 37102
with respect to which the individual has otherwise filed a claim 37103
for benefits in accordance with the rules of the department of job 37104
and family services, provided such claim is allowed by the 37105
director. 37106

(D) Notwithstanding division (A) of this section, no 37107
individual may serve a waiting period or be paid benefits under 37108
the following conditions: 37109

(1) For any week with respect to which the director finds 37110
that: 37111

(a) The individual's unemployment was due to a labor dispute 37112
other than a lockout at any factory, establishment, or other 37113
premises located in this or any other state and owned or operated 37114
by the employer by which the individual is or was last employed; 37115
and for so long as the individual's unemployment is due to such 37116
labor dispute. No individual shall be disqualified under this 37117
provision if either of the following applies: 37118

(i) The individual's employment was with such employer at any 37119

factory, establishment, or premises located in this state, owned 37120
or operated by such employer, other than the factory, 37121
establishment, or premises at which the labor dispute exists, if 37122
it is shown that the individual is not financing, participating 37123
in, or directly interested in such labor dispute; 37124

(ii) The individual's employment was with an employer not 37125
involved in the labor dispute but whose place of business was 37126
located within the same premises as the employer engaged in the 37127
dispute, unless the individual's employer is a wholly owned 37128
subsidiary of the employer engaged in the dispute, or unless the 37129
individual actively participates in or voluntarily stops work 37130
because of such dispute. If it is established that the claimant 37131
was laid off for an indefinite period and not recalled to work 37132
prior to the dispute, or was separated by the employer prior to 37133
the dispute for reasons other than the labor dispute, or that the 37134
individual obtained a bona fide job with another employer while 37135
the dispute was still in progress, such labor dispute shall not 37136
render the employee ineligible for benefits. 37137

(b) The individual has been given a disciplinary layoff for 37138
misconduct in connection with the individual's work. 37139

(2) For the duration of the individual's unemployment if the 37140
director finds that: 37141

(a) The individual quit work without just cause or has been 37142
discharged for just cause in connection with the individual's 37143
work, provided division (D)(2) of this section does not apply to 37144
the separation of a person under any of the following 37145
circumstances: 37146

(i) Separation from employment for the purpose of entering 37147
the armed forces of the United States if the individual makes 37148
application to enter, or is inducted into the armed forces within 37149
thirty days after such separation; 37150

(ii) Separation from employment pursuant to a 37151
labor-management contract or agreement, or pursuant to an 37152
established employer plan, program, or policy, which permits the 37153
employee, because of lack of work, to accept a separation from 37154
employment; 37155

(iii) The individual has left employment to accept a recall 37156
from a prior employer or, except as provided in division 37157
(D)(2)(a)(iv) of this section, to accept other employment as 37158
provided under section 4141.291 of the Revised Code, or left or 37159
was separated from employment that was concurrent employment at 37160
the time of the most recent separation or within six weeks prior 37161
to the most recent separation where the remuneration, hours, or 37162
other conditions of such concurrent employment were substantially 37163
less favorable than the individual's most recent employment and 37164
where such employment, if offered as new work, would be considered 37165
not suitable under the provisions of divisions (E) and (F) of this 37166
section. Any benefits that would otherwise be chargeable to the 37167
account of the employer from whom an individual has left 37168
employment or was separated from employment that was concurrent 37169
employment under conditions described in division (D)(2)(a)(iii) 37170
of this section, shall instead be charged to the mutualized 37171
account created by division (B) of section 4141.25 of the Revised 37172
Code, except that any benefits chargeable to the account of a 37173
reimbursing employer under division (D)(2)(a)(iii) of this section 37174
shall be charged to the account of the reimbursing employer and 37175
not to the mutualized account, except as provided in division 37176
(D)(2) of section 4141.24 of the Revised Code. 37177

(iv) When an individual has been issued a definite layoff 37178
date by the individual's employer and before the layoff date, the 37179
individual quits to accept other employment, the provisions of 37180
division (D)(2)(a)(iii) of this section apply and no 37181
disqualification shall be imposed under division (D) of this 37182

section. However, if the individual fails to meet the employment and earnings requirements of division (A)(2) of section 4141.291 of the Revised Code, then the individual, pursuant to division (A)(5) of this section, shall be ineligible for benefits for any week of unemployment that occurs prior to the layoff date.

(b) The individual has refused without good cause to accept an offer of suitable work when made by an employer either in person or to the individual's last known address, or has refused or failed to investigate a referral to suitable work when directed to do so by a local employment office of this state or another state, provided that this division shall not cause a disqualification for a waiting week or benefits under the following circumstances:

(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 37214
to any correctional institution. 37215

(f) The individual became unemployed because of dishonesty in 37216
connection with the individual's most recent or any base period 37217
work. Remuneration earned in such work shall be excluded from the 37218
individual's total base period remuneration and qualifying weeks 37219
that otherwise would be credited to the individual for such work 37220
in the individual's base period shall not be credited for the 37221
purpose of determining the total benefits to which the individual 37222
is eligible and the weekly benefit amount to be paid under section 37223
4141.30 of the Revised Code. Such excluded remuneration and 37224
noncredited qualifying weeks shall be excluded from the 37225
calculation of the maximum amount to be charged, under division 37226
(D) of section 4141.24 and section 4141.33 of the Revised Code, 37227
against the accounts of the individual's base period employers. In 37228
addition, no benefits shall thereafter be paid to the individual 37229
based upon such excluded remuneration or noncredited qualifying 37230
weeks. 37231

For purposes of division (D)(2)(f) of this section, 37232
"dishonesty" means the commission of substantive theft, fraud, or 37233
deceitful acts. 37234

(E) No individual otherwise qualified to receive benefits 37235
shall lose the right to benefits by reason of a refusal to accept 37236
new work if: 37237

(1) As a condition of being so employed the individual would 37238
be required to join a company union, or to resign from or refrain 37239
from joining any bona fide labor organization, or would be denied 37240
the right to retain membership in and observe the lawful rules of 37241
any such organization. 37242

(2) The position offered is vacant due directly to a strike, 37243
lockout, or other labor dispute. 37244

(3) The work is at an unreasonable distance from the individual's residence, having regard to the character of the work the individual has been accustomed to do, and travel to the place of work involves expenses substantially greater than that required for the individual's former work, unless the expense is provided for.

(4) The remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(F) Subject to the special exceptions contained in division (A)(4)(f) of this section and section 4141.301 of the Revised Code, in determining whether any work is suitable for a claimant in the administration of this chapter, the director, in addition to the determination required under division (E) of this section, shall consider the degree of risk to the claimant's health, safety, and morals, the individual's physical fitness for the work, the individual's prior training and experience, the length of the individual's unemployment, the distance of the available work from the individual's residence, and the individual's prospects for obtaining local work.

(G) The "duration of unemployment" as used in this section means the full period of unemployment next ensuing after a separation from any base period or subsequent work and until an individual has become reemployed in employment subject to this chapter, or the unemployment compensation act of another state, or of the United States, and until such individual has worked six weeks and for those weeks has earned or been paid remuneration equal to six times an average weekly wage of not less than: eighty-five dollars and ten cents per week beginning on June 26, 1990; and beginning on and after January 1, 1992, twenty-seven and one-half per cent of the statewide average weekly wage as computed each first day of January under division (B)(3) of section 4141.30

of the Revised Code, rounded down to the nearest dollar, except 37277
for purposes of division (D)(2)(c) of this section, such term 37278
means the full period of unemployment next ensuing after a 37279
separation from such work and until such individual has become 37280
reemployed subject to the terms set forth above, and has earned 37281
wages equal to one-half of the individual's average weekly wage or 37282
sixty dollars, whichever is less. 37283

(H) If a claimant is disqualified under division (D)(2)(a), 37284
(c), or (e) of this section or found to be qualified under the 37285
exceptions provided in division (D)(2)(a)(i), (iii), or (iv) of 37286
this section or division (A)(2) of section 4141.291 of the Revised 37287
Code, then benefits that may become payable to such claimant, 37288
which are chargeable to the account of the employer from whom the 37289
individual was separated under such conditions, shall be charged 37290
to the mutualized account provided in section 4141.25 of the 37291
Revised Code, provided that no charge shall be made to the 37292
mutualized account for benefits chargeable to a reimbursing 37293
employer, except as provided in division (D)(2) of section 4141.24 37294
of the Revised Code. In the case of a reimbursing employer, the 37295
director shall refund or credit to the account of the reimbursing 37296
employer any over-paid benefits that are recovered under division 37297
(B) of section 4141.35 of the Revised Code. 37298

(I)(1) Benefits based on service in employment as provided in 37299
divisions (B)(2)(a) and (b) of section 4141.01 of the Revised Code 37300
shall be payable in the same amount, on the same terms, and 37301
subject to the same conditions as benefits payable on the basis of 37302
other service subject to this chapter; except that after December 37303
31, 1977: 37304

(a) Benefits based on service in an instructional, research, 37305
or principal administrative capacity in an institution of higher 37306
education, as defined in division (Y) of section 4141.01 of the 37307
Revised Code; or for an educational institution as defined in 37308

division (CC) of section 4141.01 of the Revised Code, shall not be 37309
paid to any individual for any week of unemployment that begins 37310
during the period between two successive academic years or terms, 37311
or during a similar period between two regular but not successive 37312
terms or during a period of paid sabbatical leave provided for in 37313
the individual's contract, if the individual performs such 37314
services in the first of those academic years or terms and has a 37315
contract or a reasonable assurance that the individual will 37316
perform services in any such capacity for any such institution in 37317
the second of those academic years or terms. 37318

(b) Benefits based on service for an educational institution 37319
or an institution of higher education in other than an 37320
instructional, research, or principal administrative capacity, 37321
shall not be paid to any individual for any week of unemployment 37322
which begins during the period between two successive academic 37323
years or terms of the employing educational institution or 37324
institution of higher education, provided the individual performed 37325
those services for the educational institution or institution of 37326
higher education during the first such academic year or term and, 37327
there is a reasonable assurance that such individual will perform 37328
those services for any educational institution or institution of 37329
higher education in the second of such academic years or terms. 37330

An individual whose transportation staff position with a 37331
school district has been terminated pursuant to section 3319.0810 37332
of the Revised Code effective at the end of any academic year or 37333
term has a reasonable assurance of performing services in the next 37334
succeeding academic year or term for an educational institution, 37335
an institution of higher education, or an educational service 37336
agency, as defined in division (I)(1)(d) of this section, or for a 37337
nonpublic employer that provides transportation services under 37338
contract with the school district under section 3319.0810 of the 37339
Revised Code. Therefore, such an individual is not entitled to 37340

benefits under this chapter during the period between the academic 37341
year or term in which the individual's position was terminated and 37342
the next succeeding academic year or term unless the individual is 37343
not offered an opportunity to perform those services for such 37344
entities in the next succeeding academic year or term. 37345

If compensation is denied to any individual for any week 37346
under division (I)(1)(b) of this section and the individual was 37347
not offered an opportunity to perform those services for an 37348
institution of higher education or for an educational institution 37349
for the second of such academic years or terms, the individual is 37350
entitled to a retroactive payment of compensation for each week 37351
for which the individual timely filed a claim for compensation and 37352
for which compensation was denied solely by reason of division 37353
(I)(1)(b) of this section. An application for retroactive benefits 37354
shall be timely filed if received by the director or the 37355
director's deputy within or prior to the end of the fourth full 37356
calendar week after the end of the period for which benefits were 37357
denied because of reasonable assurance of employment. The 37358
provision for the payment of retroactive benefits under division 37359
(I)(1)(b) of this section is applicable to weeks of unemployment 37360
beginning on and after November 18, 1983. The provisions under 37361
division (I)(1)(b) of this section shall be retroactive to 37362
September 5, 1982, only if, as a condition for full tax credit 37363
against the tax imposed by the "Federal Unemployment Tax Act," 53 37364
Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311, the United States 37365
secretary of labor determines that retroactivity is required by 37366
federal law. 37367

(c) With respect to weeks of unemployment beginning after 37368
December 31, 1977, benefits shall be denied to any individual for 37369
any week which commences during an established and customary 37370
vacation period or holiday recess, if the individual performs any 37371
services described in divisions (I)(1)(a) and (b) of this section 37372

in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform any such services in the period immediately following the vacation period or holiday recess. 37373
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(d) With respect to any services described in division (I)(1)(a), (b), or (c) of this section, benefits payable on the basis of services in any such capacity shall be denied as specified in division (I)(1)(a), (b), or (c) of this section to any individual who performs such services in an educational institution or institution of higher education while in the employ of an educational service agency. For this purpose, the term "educational service agency" means a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing services to one or more educational institutions or one or more institutions of higher education. 37377
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(e) Any individual employed by a public school district or a county board of mental retardation shall be notified by the thirtieth day of April each year if the individual is not to be reemployed the following academic year. 37388
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(2) No disqualification will be imposed, between academic years or terms or during a vacation period or holiday recess under this division, unless the director or the director's deputy has received a statement in writing from the educational institution or institution of higher education that the claimant has a contract for, or a reasonable assurance of, reemployment for the ensuing academic year or term. 37392
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(3) If an individual has employment with an educational institution or an institution of higher education and employment with a noneducational employer, during the base period of the individual's benefit year, then the individual may become eligible for benefits during the between-term, or vacation or holiday 37399
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recess, disqualification period, based on employment performed for 37404
the noneducational employer, provided that the employment is 37405
sufficient to qualify the individual for benefit rights separately 37406
from the benefit rights based on school employment. The weekly 37407
benefit amount and maximum benefits payable during a 37408
disqualification period shall be computed based solely on the 37409
nonschool employment. 37410

(J) Benefits shall not be paid on the basis of employment 37411
performed by an alien, unless the alien had been lawfully admitted 37412
to the United States for permanent residence at the time the 37413
services were performed, was lawfully present for purposes of 37414
performing the services, or was otherwise permanently residing in 37415
the United States under color of law at the time the services were 37416
performed, under section 212(d)(5) of the "Immigration and 37417
Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101: 37418

(1) Any data or information required of individuals applying 37419
for benefits to determine whether benefits are not payable to them 37420
because of their alien status shall be uniformly required from all 37421
applicants for benefits. 37422

(2) In the case of an individual whose application for 37423
benefits would otherwise be approved, no determination that 37424
benefits to the individual are not payable because of the 37425
individual's alien status shall be made except upon a 37426
preponderance of the evidence that the individual had not, in 37427
fact, been lawfully admitted to the United States. 37428

(K) The director shall establish and utilize a system of 37429
profiling all new claimants under this chapter that: 37430

(1) Identifies which claimants will be likely to exhaust 37431
regular compensation and will need job search assistance services 37432
to make a successful transition to new employment; 37433

(2) Refers claimants identified pursuant to division (K)(1) 37434

of this section to reemployment services, such as job search 37435
assistance services, available under any state or federal law; 37436

(3) Collects follow-up information relating to the services 37437
received by such claimants and the employment outcomes for such 37438
claimant's subsequent to receiving such services and utilizes such 37439
information in making identifications pursuant to division (K)(1) 37440
of this section; and 37441

(4) Meets such other requirements as the United States 37442
secretary of labor determines are appropriate. 37443

Sec. 4301.10. (A) The division of liquor control shall do all 37444
of the following: 37445

(1) Control the traffic in beer and intoxicating liquor in 37446
this state, including the manufacture, importation, and sale of 37447
beer and intoxicating liquor; 37448

(2) Grant or refuse permits for the manufacture, 37449
distribution, transportation, and sale of beer and intoxicating 37450
liquor and the sale of alcohol, as authorized or required by this 37451
chapter and Chapter 4303. of the Revised Code. A certificate, 37452
signed by the superintendent of liquor control and to which is 37453
affixed the official seal of the division, stating that it appears 37454
from the records of the division that no permit has been issued to 37455
the person specified in the certificate, or that a permit, if 37456
issued, has been revoked, canceled, or suspended, shall be 37457
received as prima-facie evidence of the facts recited in the 37458
certificate in any court or before any officer of this state. 37459

(3) Put into operation, manage, and control a system of state 37460
liquor stores for the sale of spirituous liquor at retail and to 37461
holders of permits authorizing the sale of spirituous liquor; 37462
however, the division shall not establish any drive-in state 37463
liquor stores; and by means of those types of stores, and any 37464

manufacturing plants, distributing and bottling plants, 37465
warehouses, and other facilities that it considers expedient, 37466
establish and maintain a state monopoly of the distribution of 37467
spirituous liquor and its sale in packages or containers; and for 37468
that purpose, manufacture, buy, import, possess, and sell 37469
spirituous liquors as provided in this chapter and Chapter 4303. 37470
of the Revised Code, and in the rules promulgated by the 37471
superintendent of liquor control pursuant to those chapters; lease 37472
or in any manner acquire the use of any land or building required 37473
for any of those purposes; purchase any equipment that is 37474
required; and borrow money to carry on its business, and issue, 37475
sign, endorse, and accept notes, checks, and bills of exchange; 37476
but all obligations of the division created under authority of 37477
this division shall be a charge only upon the moneys received by 37478
the division from the sale of spirituous liquor and its other 37479
business transactions in connection with the sale of spirituous 37480
liquor, and shall not be general obligations of the state; 37481

(4) Enforce the administrative provisions of this chapter and 37482
Chapter 4303. of the Revised Code, and the rules and orders of the 37483
liquor control commission and the superintendent relating to the 37484
manufacture, importation, transportation, distribution, and sale 37485
of beer ~~and or~~ intoxicating ~~liquors~~ liquor. The attorney general, 37486
any prosecuting attorney, and any prosecuting officer of a 37487
municipal corporation or a municipal court shall, at the request 37488
of the division of liquor control or the department of public 37489
safety, prosecute any person charged with the violation of any 37490
provision in those chapters or of any section of the Revised Code 37491
relating to the manufacture, importation, transportation, 37492
distribution, and sale of beer ~~and or~~ intoxicating liquor. 37493

(5) Determine the locations of all state liquor stores and 37494
manufacturing, distributing, and bottling plants required in 37495
connection with those stores, subject to this chapter and Chapter 37496

4303. of the Revised Code; 37497

(6) Conduct inspections of liquor permit premises to 37498
determine compliance with the administrative provisions of this 37499
chapter and Chapter 4303. of the Revised Code and the rules 37500
adopted under those provisions by the liquor control commission. 37501

Except as otherwise provided in division (A)(6) of this 37502
section, those inspections may be conducted only during those 37503
hours in which the permit holder is open for business and only by 37504
authorized agents or employees of the division or by any peace 37505
officer, as defined in section 2935.01 of the Revised Code. 37506
Inspections may be conducted at other hours only to determine 37507
compliance with laws or commission rules that regulate the hours 37508
of sale of beer ~~and~~ or intoxicating liquor and only if the 37509
investigator has reasonable cause to believe that those laws or 37510
rules are being violated. Any inspection conducted pursuant to 37511
division (A)(6) of this section is subject to all of the following 37512
requirements: 37513

(a) The only property that may be confiscated is contraband, 37514
as defined in section 2901.01 of the Revised Code, or property 37515
that is otherwise necessary for evidentiary purposes. 37516

(b) A complete inventory of all property confiscated from the 37517
premises shall be given to the permit holder or the permit 37518
holder's agent or employee by the confiscating agent or officer at 37519
the conclusion of the inspection. At that time, the inventory 37520
shall be signed by the confiscating agent or officer, and the 37521
agent or officer shall give the permit holder or the permit 37522
holder's agent or employee the opportunity to sign the inventory. 37523

(c) Inspections conducted pursuant to division (A)(6) of this 37524
section shall be conducted in a reasonable manner. A finding by 37525
any court of competent jurisdiction that ~~the~~ an inspection was not 37526
conducted in a reasonable manner in accordance with this section 37527

or any rules ~~promulgated~~ adopted by the commission may be 37528
considered grounds for suppression of evidence. A finding by the 37529
~~liquor control~~ commission that ~~the~~ an inspection was not conducted 37530
in a reasonable manner in accordance with this section or any 37531
rules ~~promulgated~~ adopted by ~~the commission~~ it may be considered 37532
grounds for dismissal of the commission case. 37533

If any court of competent jurisdiction finds that property 37534
confiscated as the result of an administrative inspection is not 37535
necessary for evidentiary purposes and is not contraband, as 37536
defined in section 2901.01 of the Revised Code, the court shall 37537
order the immediate return of the confiscated property, provided 37538
that property is not otherwise subject to forfeiture, to the 37539
permit holder. However, the return of this property is not grounds 37540
for dismissal of the case. The commission likewise may order the 37541
return of confiscated property if no criminal prosecution is 37542
pending or anticipated. 37543

(7) Delegate to any of its agents or employees any power of 37544
investigation that the division possesses with respect to the 37545
enforcement of any of the administrative laws relating to beer ~~and~~ 37546
or intoxicating liquor, provided that this division does not 37547
authorize the division to designate any agent or employee to serve 37548
as an enforcement agent. The employment and designation of 37549
enforcement agents shall be within the exclusive authority of the 37550
director of public safety pursuant to sections 5502.13 to 5502.19 37551
of the Revised Code. 37552

(8) Collect the following fees: 37553

(a) A biennial ~~fifty-dollar~~ fifty-dollar registration fee for 37554
each agent, solicitor, or salesperson, registered pursuant to 37555
section 4303.25 of the Revised Code, of a beer or intoxicating 37556
liquor manufacturer, supplier, broker, or wholesale distributor 37557
doing business in this state; 37558

(b) A fifty-dollar product registration fee for each new beer 37559
or intoxicating liquor product sold in this state. The product 37560
registration fee shall be accompanied by a copy of the federal 37561
label and product approval for the new product. 37562

(c) An annual three-hundred-dollar supplier registration fee 37563
from each manufacturer or supplier that produces and ships into 37564
this state, or ships into this state, intoxicating liquor or beer, 37565
in addition to an initial application fee of one hundred dollars. 37566

Each supplier, agent, solicitor, or salesperson registration 37567
issued under this division shall authorize the person named to 37568
carry on the activity specified in the registration. Each agent, 37569
solicitor, or salesperson registration is valid for two years or 37570
for the unexpired portion of a two-year registration period. Each 37571
supplier registration is valid for one year or for the unexpired 37572
portion of a one-year registration period. Registrations shall end 37573
on their respective uniform expiration date, which shall be 37574
designated by the division, and are subject to suspension, 37575
revocation, cancellation, or fine as authorized by this chapter 37576
and Chapter 4303. of the Revised Code. 37577

(9) Establish a system of electronic data interchange within 37578
the division and regulate the electronic transfer of information 37579
and funds among persons and governmental entities engaged in the 37580
manufacture, distribution, and retail sale of alcoholic beverages; 37581

(10) Exercise all other powers expressly or by necessary 37582
implication conferred upon the division by this chapter and 37583
Chapter 4303. of the Revised Code, and all powers necessary for 37584
the exercise or discharge of any power, duty, or function 37585
expressly conferred or imposed upon the division by those 37586
chapters. 37587

(B) The division may do all of the following: 37588

(1) Sue, but may be sued only in connection with the 37589

execution of leases of real estate and the purchases and contracts 37590
necessary for the operation of the state liquor stores that are 37591
made under this chapter and Chapter 4303. of the Revised Code; 37592

(2) Enter into leases and contracts of all descriptions and 37593
acquire and transfer title to personal property with regard to the 37594
sale, distribution, and storage of spirituous liquor within the 37595
state; 37596

(3) Terminate at will any lease entered into pursuant to 37597
division (B)(2) of this section upon first giving ninety days' 37598
notice in writing to the lessor of its intention to do so; 37599

(4) Fix the wholesale and retail prices at which the various 37600
classes, varieties, and brands of spirituous liquor shall be sold 37601
by the division. Those retail prices shall be the same at all 37602
state liquor stores, except to the extent that a price 37603
differential is required to collect a county sales tax levied 37604
pursuant to section 5739.021 of the Revised Code and for which tax 37605
the tax commissioner has authorized prepayment pursuant to section 37606
5739.05 of the Revised Code. In fixing selling prices, the 37607
division shall compute an anticipated gross profit at least 37608
sufficient to provide in each calendar year all costs and expenses 37609
of the division and also an adequate working capital reserve for 37610
the division. The gross profit shall not exceed forty per cent of 37611
the retail selling price based on costs of the division, and in 37612
addition the sum required by section 4301.12 of the Revised Code 37613
to be paid into the state treasury. An amount equal to one and 37614
one-half per cent of that gross profit shall be paid into the 37615
statewide treatment and prevention fund created by section 4301.30 37616
of the Revised Code and be appropriated by the general assembly 37617
from the fund to the department of alcohol and drug addiction 37618
services as provided in section 4301.30 of the Revised Code. 37619

On spirituous liquor manufactured in this state from the 37620

juice of grapes or fruits grown in this state, the division shall 37621
compute an anticipated gross profit of not to exceed ten per cent. 37622
The 37623

The wholesale prices fixed under this division shall be at a 37624
discount of not less than ~~twelve and one half~~ six per cent of the 37625
retail selling prices as determined by the division in accordance 37626
with this section. 37627

(C) The division may approve the expansion or diminution of a 37628
premises to which a liquor permit has been issued and may adopt 37629
standards governing such an expansion or diminution. 37630

Sec. 4301.42. For the purpose of providing revenue for the 37631
support of the state, a tax is hereby levied on the sale of beer 37632
in sealed bottles and cans having twelve ounces or less of liquid 37633
content, at the rate of ~~fourteen~~ twenty-eight one-hundredths of 37634
one cent on each ounce of liquid content or fractional part of 37635
each ounce of liquid content, and on such containers in excess of 37636
twelve ounces, at the rate of ~~eighty-four~~ one and sixty-eight 37637
one-hundredths ~~of one cent~~ cents on each six ounces of liquid 37638
content or fractional part of each six ounces of liquid content. 37639
Sections 4307.01 to 4307.12 of the Revised Code apply in the 37640
administration of that tax. Manufacturers, bottlers, and canners 37641
of and wholesale dealers in beer have the duty to pay the tax 37642
imposed by this section and are entitled to the privileges in the 37643
manner provided in section 4303.33 of the Revised Code. 37644

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of 37645
the Revised Code: 37646

(1) "Gallon" or "wine gallon" means one hundred twenty-eight 37647
fluid ounces. 37648

(2) "Sale" or "sell" includes exchange, barter, gift, 37649
distribution, and, except with respect to A-4 permit holders, 37650

offer for sale.

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(B) For the purposes of providing revenues for the support of the state and encouraging the grape industries in the state, a tax is hereby levied on the sale or distribution of wine in Ohio, except for known sacramental purposes, at the rate of ~~thirty~~ sixty cents per wine gallon for wine containing not less than four per cent of alcohol by volume and not more than fourteen per cent of alcohol by volume, ~~ninety-eight~~ one dollar and ninety-six cents per wine gallon for wine containing more than fourteen per cent but not more than twenty-one per cent of alcohol by volume, ~~one dollar~~ two dollars and ~~eight~~ sixteen cents per wine gallon for vermouth, and ~~one dollar~~ two dollars and ~~forty-eight~~ ninety-six cents per wine gallon for sparkling and carbonated wine and champagne, the tax to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing wine upon which no tax has been paid. From the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to one cent per gallon for each gallon upon which the tax is paid.

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(C) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on prepared and bottled highballs, cocktails, cordials, and other mixed beverages at the rate of ~~one dollar~~ two dollars and ~~twenty~~ forty cents per wine gallon to be paid by holders of A-4 permits or by any other person selling or distributing those products upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of tax due. The tax on mixed beverages to be paid by holders of A-4 permits under this section shall not attach until the ownership of the mixed beverage is transferred for valuable consideration to a wholesaler or retailer, and no payment of the

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tax shall be required prior to that time. 37683

(D) During the period of July 1, ~~2003~~ 2005, through June 30, 37684
~~2005~~ 2007, from the tax paid under this section on wine, vermouth, 37685
and sparkling and carbonated wine and champagne, the treasurer of 37686
state shall credit to the Ohio grape industries fund created under 37687
section 924.54 of the Revised Code a sum equal to two cents per 37688
gallon upon which the tax is paid. The amount credited under this 37689
division is in addition to the amount credited to the Ohio grape 37690
industries fund under division (B) of this section. 37691

(E) For the purpose of providing revenues for the support of 37692
the state, there is hereby levied a tax on cider at the rate of 37693
~~twenty-four~~ forty-eight cents per wine gallon to be paid by the 37694
holders of A-2 and B-5 permits or by any other person selling or 37695
distributing cider upon which no tax has been paid. Only one sale 37696
of the same article shall be used in computing the amount of the 37697
tax due. 37698

Sec. 4305.01. For the purpose of reimbursing the state for 37699
the expenses of administering Chapters 4301. and 4303. of the 37700
Revised Code and to provide revenues for the support of the state, 37701
a tax is hereby levied on the sale or distribution in this state 37702
of beer, whether in barrels or other containers, excepting in 37703
sealed bottles or cans, at the rate of ~~five~~ eleven dollars and 37704
~~fifty-eight~~ sixteen cents per barrel of thirty-one gallons. 37705

The tax commissioner shall exercise, with respect to the 37706
administration of the tax imposed by this section, all the powers 37707
and duties vested in or imposed by sections 4307.04 to 4307.07 of 37708
the Revised Code, so far as consistent with this section. 37709
Manufacturers and consignees of beer in barrels or other 37710
containers, excepting in sealed bottles or cans, and railroad 37711
companies, express companies, and other public carriers 37712
transporting shipments of such beer are subject, with respect to 37713

such tax, to the same duties and entitled to the same privileges 37714
as are required or permitted by those sections. 37715

The revenue derived from the tax on the sale and distribution 37716
of beer pursuant to this section and section 4301.42 of the 37717
Revised Code shall be for the use of the general revenue fund. 37718

The tax refund fund created by section 5703.052 of the 37719
Revised Code may be drawn upon by the tax commissioner for any 37720
refunds authorized to be made by the commissioner in sections 37721
4303.33, 4307.05, and 4307.07 of the Revised Code for beer. 37722

Sec. 4505.06. (A)(1) Application for a certificate of title 37723
shall be made in a form prescribed by the registrar of motor 37724
vehicles and shall be sworn to before a notary public or other 37725
officer empowered to administer oaths. The application shall be 37726
filed with the clerk of any court of common pleas. An application 37727
for a certificate of title may be filed electronically by any 37728
electronic means approved by the registrar in any county with the 37729
clerk of the court of common pleas of that county. Any payments 37730
required by this chapter shall be considered as accompanying any 37731
electronically transmitted application when payment actually is 37732
received by the clerk. Payment of any fee or taxes may be made by 37733
electronic transfer of funds. 37734

(2) The application for a certificate of title shall be 37735
accompanied by the fee prescribed in section 4505.09 of the 37736
Revised Code. The fee shall be retained by the clerk who issues 37737
the certificate of title and shall be distributed in accordance 37738
with that section. If a clerk of a court of common pleas, other 37739
than the clerk of the court of common pleas of an applicant's 37740
county of residence, issues a certificate of title to the 37741
applicant, the clerk shall transmit data related to the 37742
transaction to the automated title processing system. 37743

(3) If a certificate of title previously has been issued for 37744
a motor vehicle in this state, the application for a certificate 37745
of title also shall be accompanied by that certificate of title 37746
duly assigned, unless otherwise provided in this chapter. If a 37747
certificate of title previously has not been issued for the motor 37748
vehicle in this state, the application, unless otherwise provided 37749
in this chapter, shall be accompanied by a manufacturer's or 37750
importer's certificate or by a certificate of title of another 37751
state from which the motor vehicle was brought into this state. If 37752
the application refers to a motor vehicle last previously 37753
registered in another state, the application also shall be 37754
accompanied by the physical inspection certificate required by 37755
section 4505.061 of the Revised Code. If the application is made 37756
by two persons regarding a motor vehicle in which they wish to 37757
establish joint ownership with right of survivorship, they may do 37758
so as provided in section 2131.12 of the Revised Code. If the 37759
applicant requests a designation of the motor vehicle in 37760
beneficiary form so that upon the death of the owner of the motor 37761
vehicle, ownership of the motor vehicle will pass to a designated 37762
transfer-on-death beneficiary or beneficiaries, the applicant may 37763
do so as provided in section 2131.13 of the Revised Code. A person 37764
who establishes ownership of a motor vehicle that is transferable 37765
on death in accordance with section 2131.13 of the Revised Code 37766
may terminate that type of ownership or change the designation of 37767
the transfer-on-death beneficiary or beneficiaries by applying for 37768
a certificate of title pursuant to this section. The clerk shall 37769
retain the evidence of title presented by the applicant and on 37770
which the certificate of title is issued, except that, if an 37771
application for a certificate of title is filed electronically by 37772
an electronic motor vehicle dealer on behalf of the purchaser of a 37773
motor vehicle, the clerk shall retain the completed electronic 37774
record to which the dealer converted the certificate of title 37775
application and other required documents. The registrar, after 37776

consultation with the attorney general, shall adopt rules that 37777
govern the location at which, and the manner in which, are stored 37778
the actual application and all other documents relating to the 37779
sale of a motor vehicle when an electronic motor vehicle dealer 37780
files the application for a certificate of title electronically on 37781
behalf of the purchaser. 37782

The clerk shall use reasonable diligence in ascertaining 37783
whether or not the facts in the application for a certificate of 37784
title are true by checking the application and documents 37785
accompanying it or the electronic record to which a dealer 37786
converted the application and accompanying documents with the 37787
records of motor vehicles in the clerk's office. If the clerk is 37788
satisfied that the applicant is the owner of the motor vehicle and 37789
that the application is in the proper form, the clerk, within five 37790
business days after the application is filed, shall issue a 37791
physical certificate of title over the clerk's signature and 37792
sealed with the clerk's seal, unless the applicant specifically 37793
requests the clerk not to issue a physical certificate of title 37794
and instead to issue an electronic certificate of title. For 37795
purposes of the transfer of a certificate of title, if the clerk 37796
is satisfied that the secured party has duly discharged a lien 37797
notation but has not canceled the lien notation with a clerk, the 37798
clerk may cancel the lien notation on the automated title 37799
processing system and notify the clerk of the county of origin. 37800

(4) In the case of the sale of a motor vehicle to a general 37801
buyer or user by a dealer, by a motor vehicle leasing dealer 37802
selling the motor vehicle to the lessee or, in a case in which the 37803
leasing dealer subleased the motor vehicle, the sublessee, at the 37804
end of the lease agreement or sublease agreement, or by a 37805
manufactured home broker, the certificate of title shall be 37806
obtained in the name of the buyer by the dealer, leasing dealer, 37807
or manufactured home broker, as the case may be, upon application 37808

signed by the buyer. The certificate of title shall be issued, or 37809
the process of entering the certificate of title application 37810
information into the automated title processing system if a 37811
physical certificate of title is not to be issued shall be 37812
completed, within five business days after the application for 37813
title is filed with the clerk. If the buyer of the motor vehicle 37814
previously leased the motor vehicle and is buying the motor 37815
vehicle at the end of the lease pursuant to that lease, the 37816
certificate of title shall be obtained in the name of the buyer by 37817
the motor vehicle leasing dealer who previously leased the motor 37818
vehicle to the buyer or by the motor vehicle leasing dealer who 37819
subleased the motor vehicle to the buyer under a sublease 37820
agreement. 37821

In all other cases, except as provided in section 4505.032 37822
and division (D)(2) of section 4505.11 of the Revised Code, such 37823
certificates shall be obtained by the buyer. 37824

(5)(a)(i) If the certificate of title is being obtained in 37825
the name of the buyer by a motor vehicle dealer or motor vehicle 37826
leasing dealer and there is a security interest to be noted on the 37827
certificate of title, the dealer or leasing dealer shall submit 37828
the application for the certificate of title and payment of the 37829
applicable tax to a clerk within seven business days after the 37830
later of the delivery of the motor vehicle to the buyer or the 37831
date the dealer or leasing dealer obtains the manufacturer's or 37832
importer's certificate, or certificate of title issued in the name 37833
of the dealer or leasing dealer, for the motor vehicle. Submission 37834
of the application for the certificate of title and payment of the 37835
applicable tax within the required seven business days may be 37836
indicated by postmark or receipt by a clerk within that period. 37837

(ii) Upon receipt of the certificate of title with the 37838
security interest noted on its face, the dealer or leasing dealer 37839
shall forward the certificate of title to the secured party at the 37840

location noted in the financing documents or otherwise specified 37841
by the secured party. 37842

(iii) A motor vehicle dealer or motor vehicle leasing dealer 37843
is liable to a secured party for a late fee of ten dollars per day 37844
for each certificate of title application and payment of the 37845
applicable tax that is submitted to a clerk more than seven 37846
business days but less than twenty-one days after the later of the 37847
delivery of the motor vehicle to the buyer or the date the dealer 37848
or leasing dealer obtains the manufacturer's or importer's 37849
certificate, or certificate of title issued in the name of the 37850
dealer or leasing dealer, for the motor vehicle and, from then on, 37851
twenty-five dollars per day until the application and applicable 37852
tax are submitted to a clerk. 37853

(b) In all cases of transfer of a motor vehicle, the 37854
application for certificate of title shall be filed within thirty 37855
days after the assignment or delivery of the motor vehicle. If an 37856
application for a certificate of title is not filed within the 37857
period specified in division (A)(5)(b) of this section, the clerk 37858
shall collect a fee of five dollars for the issuance of the 37859
certificate, except that no such fee shall be required from a 37860
motor vehicle salvage dealer, as defined in division (A) of 37861
section 4738.01 of the Revised Code, who immediately surrenders 37862
the certificate of title for cancellation. The fee shall be in 37863
addition to all other fees established by this chapter, and shall 37864
be retained by the clerk. The registrar shall provide, on the 37865
certificate of title form prescribed by section 4505.07 of the 37866
Revised Code, language necessary to give evidence of the date on 37867
which the assignment or delivery of the motor vehicle was made. 37868

(6) As used in division (A) of this section, "lease 37869
agreement," "lessee," and "sublease agreement" have the same 37870
meanings as in section 4505.04 of the Revised Code. 37871

(B)(1) The clerk, except as provided in this section, shall 37872
refuse to accept for filing any application for a certificate of 37873
title and shall refuse to issue a certificate of title unless the 37874
dealer or manufactured home broker or the applicant, in cases in 37875
which the certificate shall be obtained by the buyer, submits with 37876
the application payment of the tax levied by or pursuant to 37877
Chapters 5739. and 5741. of the Revised Code based on the 37878
purchaser's county of residence. Upon payment of the tax in 37879
accordance with division (E) of this section, the clerk shall 37880
issue a receipt prescribed by the registrar and agreed upon by the 37881
tax commissioner showing payment of the tax or a receipt issued by 37882
the commissioner showing the payment of the tax. When submitting 37883
payment of the tax to the clerk, a dealer shall retain any 37884
discount to which the dealer is entitled under section 5739.12 of 37885
the Revised Code. 37886

(2) For receiving and disbursing such taxes paid to the clerk 37887
by a resident of the clerk's county, the clerk may retain a 37888
poundage fee of one and one one-hundredth per cent, and the clerk 37889
shall pay the poundage fee into the certificate of title 37890
administration fund created by section 325.33 of the Revised Code. 37891
The clerk shall not retain a poundage fee from payments of taxes 37892
by persons who do not reside in the clerk's county. 37893

A clerk, however, may retain from the taxes paid to the clerk 37894
an amount equal to the poundage fees associated with certificates 37895
of title issued by other clerks of courts of common pleas to 37896
applicants who reside in the first clerk's county. The registrar, 37897
in consultation with the tax commissioner and the clerks of the 37898
courts of common pleas, shall develop a report from the automated 37899
title processing system that informs each clerk of the amount of 37900
the poundage fees that the clerk is permitted to retain from those 37901
taxes because of certificates of title issued by the clerks of 37902
other counties to applicants who reside in the first clerk's 37903

county. 37904

(3) In the case of casual sales of motor vehicles, as defined 37905
in section 4517.01 of the Revised Code, the price for the purpose 37906
of determining the tax shall be the purchase price on the assigned 37907
certificate of title executed by the seller and filed with the 37908
clerk by the buyer on a form to be prescribed by the registrar, 37909
which shall be prima-facie evidence of the amount for the 37910
determination of the tax. 37911

(4) Each county clerk shall forward to the treasurer of state 37912
all sales and use tax collections resulting from sales of motor 37913
vehicles, off-highway motorcycles, and all-purpose vehicles during 37914
a calendar week on or before the Friday following the close of 37915
that week. If, on any Friday, the offices of the clerk of courts 37916
or the state are not open for business, the tax shall be forwarded 37917
to the treasurer of state on or before the next day on which the 37918
offices are open. Every remittance of tax under division (B)(4) of 37919
this section shall be accompanied by a remittance report in such 37920
form as the tax commissioner prescribes. Upon receipt of a tax 37921
remittance and remittance report, the treasurer of state shall 37922
date stamp the report and forward it to the tax commissioner. If 37923
the tax due for any week is not remitted by a clerk of courts as 37924
required under division (B)(4) of this section, the commissioner 37925
may require the clerk to forfeit the poundage fees for the sales 37926
made during that week. The treasurer of state may require the 37927
clerks of courts to transmit tax collections and remittance 37928
reports electronically. 37929

(C)(1) If the transferor indicates on the certificate of 37930
title that the odometer reflects mileage in excess of the designed 37931
mechanical limit of the odometer, the clerk shall enter the phrase 37932
"exceeds mechanical limits" following the mileage designation. If 37933
the transferor indicates on the certificate of title that the 37934
odometer reading is not the actual mileage, the clerk shall enter 37935

the phrase "nonactual: warning - odometer discrepancy" following 37936
the mileage designation. The clerk shall use reasonable care in 37937
transferring the information supplied by the transferor, but is 37938
not liable for any errors or omissions of the clerk or those of 37939
the clerk's deputies in the performance of the clerk's duties 37940
created by this chapter. 37941

The registrar shall prescribe an affidavit in which the 37942
transferor shall swear to the true selling price and, except as 37943
provided in this division, the true odometer reading of the motor 37944
vehicle. The registrar may prescribe an affidavit in which the 37945
seller and buyer provide information pertaining to the odometer 37946
reading of the motor vehicle in addition to that required by this 37947
section, as such information may be required by the United States 37948
secretary of transportation by rule prescribed under authority of 37949
subchapter IV of the "Motor Vehicle Information and Cost Savings 37950
Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 37951

(2) Division (C)(1) of this section does not require the 37952
giving of information concerning the odometer and odometer reading 37953
of a motor vehicle when ownership of a motor vehicle is being 37954
transferred as a result of a bequest, under the laws of intestate 37955
succession, to a survivor pursuant to section 2106.18, 2131.12, or 37956
4505.10 of the Revised Code, to a transfer-on-death beneficiary or 37957
beneficiaries pursuant to section 2131.13 of the Revised Code, in 37958
connection with the creation of a security interest or for a 37959
vehicle with a gross vehicle weight rating of more than sixteen 37960
thousand pounds. 37961

(D) When the transfer to the applicant was made in some other 37962
state or in interstate commerce, the clerk, except as provided in 37963
this section, shall refuse to issue any certificate of title 37964
unless the tax imposed by or pursuant to Chapter 5741. of the 37965
Revised Code based on the purchaser's county of residence has been 37966
paid as evidenced by a receipt issued by the tax commissioner, or 37967

unless the applicant submits with the application payment of the 37968
tax. Upon payment of the tax in accordance with division (E) of 37969
this section, the clerk shall issue a receipt prescribed by the 37970
registrar and agreed upon by the tax commissioner, showing payment 37971
of the tax. 37972

For receiving and disbursing such taxes paid to the clerk by 37973
a resident of the clerk's county, the clerk may retain a poundage 37974
fee of one and one one-hundredth per cent. The clerk shall not 37975
retain a poundage fee from payments of taxes by persons who do not 37976
reside in the clerk's county. 37977

A clerk, however, may retain from the taxes paid to the clerk 37978
an amount equal to the poundage fees associated with certificates 37979
of title issued by other clerks of courts of common pleas to 37980
applicants who reside in the first clerk's county. The registrar, 37981
in consultation with the tax commissioner and the clerks of the 37982
courts of common pleas, shall develop a report from the automated 37983
title processing system that informs each clerk of the amount of 37984
the poundage fees that the clerk is permitted to retain from those 37985
taxes because of certificates of title issued by the clerks of 37986
other counties to applicants who reside in the first clerk's 37987
county. 37988

When the vendor is not regularly engaged in the business of 37989
selling motor vehicles, the vendor shall not be required to 37990
purchase a vendor's license or make reports concerning those 37991
sales. 37992

(E) The clerk shall accept any payment of a tax in cash, or 37993
by cashier's check, certified check, draft, money order, or teller 37994
check issued by any insured financial institution payable to the 37995
clerk and submitted with an application for a certificate of title 37996
under division (B) or (D) of this section. The clerk also may 37997
accept payment of the tax by corporate, business, or personal 37998

check, credit card, electronic transfer or wire transfer, debit 37999
card, or any other accepted form of payment made payable to the 38000
clerk. The clerk may require bonds, guarantees, or letters of 38001
credit to ensure the collection of corporate, business, or 38002
personal checks. Any service fee charged by a third party to a 38003
clerk for the use of any form of payment may be paid by the clerk 38004
from the certificate of title administration fund created in 38005
section 325.33 of the Revised Code, or may be assessed by the 38006
clerk upon the applicant as an additional fee. Upon collection, 38007
the additional fees shall be paid by the clerk into that 38008
certificate of title administration fund. 38009

The clerk shall make a good faith effort to collect any 38010
payment of taxes due but not made because the payment was returned 38011
or dishonored, but the clerk is not personally liable for the 38012
payment of uncollected taxes or uncollected fees. The clerk shall 38013
notify the tax commissioner of any such payment of taxes that is 38014
due but not made and shall furnish the information to the 38015
commissioner that the commissioner requires. The clerk shall 38016
deduct the amount of taxes due but not paid from the clerk's 38017
periodic remittance of tax payments, in accordance with procedures 38018
agreed upon by the tax commissioner. The commissioner may collect 38019
taxes due by assessment in the manner provided in section 5739.13 38020
of the Revised Code. 38021

Any person who presents payment that is returned or 38022
dishonored for any reason is liable to the clerk for payment of a 38023
penalty over and above the amount of the taxes due. The clerk 38024
shall determine the amount of the penalty, and the penalty shall 38025
be no greater than that amount necessary to compensate the clerk 38026
for banking charges, legal fees, or other expenses incurred by the 38027
clerk in collecting the returned or dishonored payment. The 38028
remedies and procedures provided in this section are in addition 38029
to any other available civil or criminal remedies. Subsequently 38030

collected penalties, poundage fees, and title fees, less any title 38031
fee due the state, from returned or dishonored payments collected 38032
by the clerk shall be paid into the certificate of title 38033
administration fund. Subsequently collected taxes, less poundage 38034
fees, shall be sent by the clerk to the treasurer of state at the 38035
next scheduled periodic remittance of tax payments, with 38036
information as the commissioner may require. The clerk may abate 38037
all or any part of any penalty assessed under this division. 38038

(F) In the following cases, the clerk shall accept for filing 38039
an application and shall issue a certificate of title without 38040
requiring payment or evidence of payment of the tax: 38041

(1) When the purchaser is this state or any of its political 38042
subdivisions, a church, or an organization whose purchases are 38043
exempted by section 5739.02 of the Revised Code; 38044

(2) When the transaction in this state is not a retail sale 38045
as defined by section 5739.01 of the Revised Code; 38046

(3) When the purchase is outside this state or in interstate 38047
commerce and the purpose of the purchaser is not to use, store, or 38048
consume within the meaning of section 5741.01 of the Revised Code; 38049

(4) When the purchaser is the federal government; 38050

(5) When the motor vehicle was purchased outside this state 38051
for use outside this state; 38052

(6) When the motor vehicle is purchased by a nonresident of 38053
this state for immediate removal from this state, and will be 38054
permanently titled and registered in another state, as provided by 38055
division (B)(23) of section 5739.02 of the Revised Code, and upon 38056
presentation of a copy of the affidavit provided by that section, 38057
and a copy of the exemption certificate provided by section 38058
5739.03 of the Revised Code. 38059

~~The clerk shall forward all payments of taxes, less poundage 38060~~

~~fees, to the treasurer of state in a manner to be prescribed by~~ 38061
~~the tax commissioner and shall furnish information to the~~ 38062
~~commissioner as the commissioner requires.~~ 38063

(G) An application, as prescribed by the registrar and agreed 38064
to by the tax commissioner, shall be filled out and sworn to by 38065
the buyer of a motor vehicle in a casual sale. The application 38066
shall contain the following notice in bold lettering: "WARNING TO 38067
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 38068
law to state the true selling price. A false statement is in 38069
violation of section 2921.13 of the Revised Code and is punishable 38070
by six months' imprisonment or a fine of up to one thousand 38071
dollars, or both. All transfers are audited by the department of 38072
taxation. The seller and buyer must provide any information 38073
requested by the department of taxation. The buyer may be assessed 38074
any additional tax found to be due." 38075

(H) For sales of manufactured homes or mobile homes occurring 38076
on or after January 1, 2000, the clerk shall accept for filing, 38077
pursuant to Chapter 5739. of the Revised Code, an application for 38078
a certificate of title for a manufactured home or mobile home 38079
without requiring payment of any tax pursuant to section 5739.02, 38080
5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt 38081
issued by the tax commissioner showing payment of the tax. For 38082
sales of manufactured homes or mobile homes occurring on or after 38083
January 1, 2000, the applicant shall pay to the clerk an 38084
additional fee of five dollars for each certificate of title 38085
issued by the clerk for a manufactured or mobile home pursuant to 38086
division (H) of section 4505.11 of the Revised Code and for each 38087
certificate of title issued upon transfer of ownership of the 38088
home. The clerk shall credit the fee to the county certificate of 38089
title administration fund, and the fee shall be used to pay the 38090
expenses of archiving those certificates pursuant to division (A) 38091
of section 4505.08 and division (H)(3) of section 4505.11 of the 38092

Revised Code. The tax commissioner shall administer any tax on a 38093
manufactured or mobile home pursuant to Chapters 5739. and 5741. 38094
of the Revised Code. 38095

(I) Every clerk shall have the capability to transact by 38096
electronic means all procedures and transactions relating to the 38097
issuance of motor vehicle certificates of title that are described 38098
in the Revised Code as being accomplished by electronic means. 38099

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 38100
trackless trolley upon meeting or overtaking from either direction 38101
any school bus stopped for the purpose of receiving or discharging 38102
any school child, person attending programs offered by community 38103
boards of mental health and county boards of mental retardation 38104
and developmental disabilities, or child attending a program 38105
offered by a head start agency, shall stop at least ten feet from 38106
the front or rear of the school bus and shall not proceed until 38107
such school bus resumes motion, or until signaled by the school 38108
bus driver to proceed. 38109

It is no defense to a charge under this division that the 38110
school bus involved failed to display or be equipped with an 38111
automatically extended stop warning sign as required by division 38112
(B) of this section. 38113

(B) Every school bus shall be equipped with amber and red 38114
visual signals meeting the requirements of section 4511.771 of the 38115
Revised Code, and an automatically extended stop warning sign of a 38116
type approved by the state board of education, which shall be 38117
actuated by the driver of the bus whenever but only whenever the 38118
bus is stopped or stopping on the roadway for the purpose of 38119
receiving or discharging school children, persons attending 38120
programs offered by community boards of mental health and county 38121
boards of mental retardation and developmental disabilities, or 38122
children attending programs offered by head start agencies. A 38123

school bus driver shall not actuate the visual signals or the stop 38124
warning sign in designated school bus loading areas where the bus 38125
is entirely off the roadway or at school buildings when children 38126
or persons attending programs offered by community boards of 38127
mental health and county boards of mental retardation and 38128
developmental disabilities are loading or unloading at curbside or 38129
at buildings when children attending programs offered by head 38130
start agencies are loading or unloading at curbside. The visual 38131
signals and stop warning sign shall be synchronized or otherwise 38132
operated as required by rule of the board. 38133

(C) Where a highway has been divided into four or more 38134
traffic lanes, a driver of a vehicle, streetcar, or trackless 38135
trolley need not stop for a school bus approaching from the 38136
opposite direction which has stopped for the purpose of receiving 38137
or discharging any school child, persons attending programs 38138
offered by community boards of mental health and county boards of 38139
mental retardation and developmental disabilities, or children 38140
attending programs offered by head start agencies. The driver of 38141
any vehicle, streetcar, or trackless trolley overtaking the school 38142
bus shall comply with division (A) of this section. 38143

(D) School buses operating on divided highways or on highways 38144
with four or more traffic lanes shall receive and discharge all 38145
school children, persons attending programs offered by community 38146
boards of mental health and county boards of mental retardation 38147
and developmental disabilities, and children attending programs 38148
offered by head start agencies on their residence side of the 38149
highway. 38150

(E) No school bus driver shall start the driver's bus until 38151
after any child, person attending programs offered by community 38152
boards of mental health and county boards of mental retardation 38153
and developmental disabilities, or child attending a program 38154
offered by a head start agency who may have alighted therefrom has 38155

reached a place of safety on the child's or person's residence 38156
side of the road. 38157

(F)(1) Whoever violates division (A) of this section may be 38158
fined an amount not to exceed five hundred dollars. A person who 38159
is issued a citation for a violation of division (A) of this 38160
section is not permitted to enter a written plea of guilty and 38161
waive the person's right to contest the citation in a trial but 38162
instead must appear in person in the proper court to answer the 38163
charge. 38164

(2) In addition to and independent of any other penalty 38165
provided by law, the court or mayor may impose upon an offender 38166
who violates this section a class seven suspension of the 38167
offender's driver's license, commercial driver's license, 38168
temporary instruction permit, probationary license, or nonresident 38169
operating privilege from the range specified in division (A)(7) of 38170
section 4510.02 of the Revised Code. When a license is suspended 38171
under this section, the court or mayor shall cause the offender to 38172
deliver the license to the court, and the court or clerk of the 38173
court immediately shall forward the license to the registrar of 38174
motor vehicles, together with notice of the court's action. 38175

(G) As used in this section: 38176

(1) "Head start agency" has the same meaning as in section 38177
~~3301.31~~ 3301.32 of the Revised Code. 38178

(2) "School bus," as used in relation to children who attend 38179
a program offered by a head start agency, means a bus that is 38180
owned and operated by a head start agency, is equipped with an 38181
automatically extended stop warning sign of a type approved by the 38182
state board of education, is painted the color and displays the 38183
markings described in section 4511.77 of the Revised Code, and is 38184
equipped with amber and red visual signals meeting the 38185
requirements of section 4511.771 of the Revised Code, irrespective 38186

of whether or not the bus has fifteen or more children aboard at 38187
any time. "School bus" does not include a van owned and operated 38188
by a head start agency, irrespective of its color, lights, or 38189
markings. 38190

Sec. 4519.02. (A) Except as provided in divisions (B), (C), 38191
and (D) of this section, no person shall operate any snowmobile, 38192
off-highway motorcycle, or all-purpose vehicle within this state 38193
unless the snowmobile, off-highway motorcycle, or all-purpose 38194
vehicle is registered and numbered in accordance with sections 38195
4519.03 and 4519.04 of the Revised Code. 38196

(B) No registration is required for a snowmobile, off-highway 38197
motorcycle, or all-purpose vehicle that is operated exclusively 38198
upon lands owned by the owner of the snowmobile, off-highway 38199
motorcycle, or all-purpose vehicle, or on lands to which the owner 38200
has a contractual right. 38201

(C) ~~No registration is required for a snowmobile, off highway 38202
motorcycle, or all purpose vehicle owned and used in this state by 38203
a resident of another state whenever that state has in effect a 38204
registration law similar to this chapter and the snowmobile, 38205
off highway motorcycle, or all purpose vehicle is properly 38206
registered thereunder.~~ Any snowmobile, off-highway motorcycle, or 38207
all-purpose vehicle owned and used in this state by a person who 38208
is not a resident of another this state ~~not having such a 38209
registration requirement~~ shall comply with section 4519.09 of the 38210
Revised Code. 38211

(D) No registration is required for a snowmobile, off-highway 38212
motorcycle, or all-purpose vehicle owned and used in this state by 38213
the United States, another state, or a political subdivision 38214
thereof, but the snowmobile, off-highway motorcycle, or 38215
all-purpose vehicle shall display the name of the owner thereon. 38216

(E) The owner or operator of any all-purpose vehicle operated 38217
or used upon the waters in this state shall comply with Chapters 38218
1547. and 1548. of the Revised Code relative to the operation of 38219
watercraft. 38220

(F) Except as otherwise provided in this division, whoever 38221
violates division (A) of this section shall be fined not more than 38222
twenty-five dollars. If the offender previously has been convicted 38223
of or pleaded guilty to a violation of division (A) of this 38224
section, whoever violates division (A) of this section shall be 38225
fined not less than twenty-five nor more than fifty dollars. 38226

Sec. 4519.09. Every owner or operator of a snowmobile, 38227
off-highway motorcycle, or all-purpose vehicle who is not a 38228
resident of a this state ~~not having a registration law similar to~~ 38229
~~this chapter~~, and who expects to use the snowmobile, off-highway 38230
motorcycle, or all-purpose vehicle in Ohio, shall apply to the 38231
registrar of motor vehicles or a deputy registrar for a temporary 38232
operating permit. The temporary operating permit shall be issued 38233
for a period not to exceed fifteen days from the date of issuance, 38234
shall be in such form as the registrar determines, shall include 38235
the name and address of the owner and operator of the snowmobile, 38236
off-highway motorcycle, or all-purpose vehicle, and any other 38237
information as the registrar considers necessary, and shall be 38238
issued upon payment of a fee of five dollars. Every owner or 38239
operator receiving a temporary operating permit shall display it 38240
upon the reasonable request of any law enforcement officer or 38241
other person as authorized by sections 4519.42 and 4519.43 of the 38242
Revised Code. 38243

Sec. 4561.17. For the purpose of providing revenue for paying 38244
the expenses of administering sections 4561.17 to 4561.22 of the 38245
Revised Code relative to the registration of aircraft, for the 38246

surveying of and the establishment, checking, maintenance, and 38247
repair of aviation air marking and of air navigation facilities, 38248
for airport capital improvements, for the acquiring, maintaining, 38249
and repairing of equipment necessary therefor, and for the cost of 38250
the creation and distribution of Ohio aeronautical charts and Ohio 38251
airport and landing field directories, an annual license tax is 38252
hereby levied upon all aircraft based in this state for which an 38253
aircraft worthiness certificate issued by the federal aviation 38254
administration is in effect except the following: 38255

(A) Aircraft owned by the United States or any territory 38256
thereof; 38257

(B) Aircraft owned by any foreign government; 38258

(C) Aircraft owned by any state or any political subdivision 38259
thereof; 38260

(D) Aircraft operated under a certificate of convenience and 38261
necessity issued by the civil aeronautics board or any successor 38262
thereto; 38263

(E) Aircraft owned by any nonresident of this state whether 38264
such owner is an individual, partnership, or corporation, provided 38265
such owner has complied with all the laws in regard to the 38266
licensing of aircraft in the state of ~~his~~ the owner's residence; 38267

(F) Aircraft owned by aircraft manufacturers or aircraft 38268
engine manufacturers and operated only for purposes of testing, 38269
delivery, or demonstration; 38270

(G) Aircraft operated for hire over regularly scheduled 38271
routes within the state. 38272

Such license tax shall be at the rates specified in section 38273
4561.18 of the Revised Code, and shall be paid to and collected by 38274
the director of transportation at the time of making application 38275
as provided in such section. 38276

Sec. 4561.18. Applications for the licensing and registration 38277
of aircraft shall be made and signed by the owner thereof upon 38278
forms prepared by the department of transportation and shall 38279
contain a description of the aircraft, including its federal 38280
registration number, and such other information as is required by 38281
the department. 38282

Applications shall be filed with the director of 38283
transportation during the month of January annually and shall be 38284
renewed according to the standard renewal procedure of sections 38285
4745.01 to 4745.03 of the Revised Code. Application for 38286
registration of any aircraft not previously registered in this 38287
state, if such aircraft is acquired or becomes subject to such 38288
license tax subsequent to the last day of January in any year, 38289
shall be made for the balance of the year in which the same is 38290
acquired, within forty-eight hours after such acquisition or after 38291
becoming subject to such license tax. Each such application shall 38292
be accompanied by the proper license tax, which, for all aircraft 38293
other than gliders and balloons, shall be at the annual rate of 38294
~~one hundred~~ fifteen dollars per ~~aircraft~~ seat, based on the 38295
manufacturer's maximum listed seating capacity. The license tax 38296
for gliders and balloons shall be ~~three~~ fifteen dollars annually. 38297

Such taxes are in lieu of all other taxes on or with respect 38298
to ownership of such aircraft. 38299

Sec. 4561.21. (A) The director of transportation shall 38300
deposit all aircraft transfer fees in the state treasury to the 38301
credit of the general fund. 38302

(B) The director shall deposit all aircraft license taxes in 38303
the state treasury to the credit of the ~~county~~ airport ~~maintenance~~ 38304
assistance fund, which is hereby created. Money in the fund shall 38305
be used ~~to assist counties in maintaining the~~ for maintenance and 38306

capital improvements to publicly owned airports ~~they own~~, and the 38307
director shall distribute the money to ~~counties~~ eligible 38308
recipients in accordance with such procedures, guidelines, and 38309
criteria as the director shall establish. 38310

Sec. 4703.15. (A) The state board of examiners of architects 38311
may by three concurring votes deny renewal of, revoke, or suspend 38312
any certificate of qualification to practice architecture, issued 38313
or renewed under sections 4703.10, 4703.13, and 4703.14 of the 38314
Revised Code, or any certificate of authorization, issued or 38315
renewed under sections 4703.13 and 4703.18 of the Revised Code, if 38316
proof satisfactory to the board is presented in any of the 38317
following cases: 38318

~~(A)~~(1) In case it is shown that the certificate was obtained 38319
by fraud; 38320

~~(B)~~(2) In case the holder of the certificate has been found 38321
guilty by the board or by a court of justice of any fraud or 38322
deceit in ~~his~~ the holder's professional practice, or has been 38323
convicted of a felony by a court of justice; 38324

~~(C)~~(3) In case the holder has been found guilty by the board 38325
of gross negligence, incompetency, or misconduct in the 38326
performance of ~~his~~ the holder's services as an architect or in the 38327
practice of architecture; 38328

~~(D)~~(4) In case the holder of the certificate has been found 38329
guilty by the board of signing plans for the construction of a 38330
building as a "registered architect" where ~~he~~ the holder is not 38331
the actual architect of such building and where ~~he~~ the holder is 38332
without prior written consent of the architect originating the 38333
design or other documents used in the plans; 38334

~~(E)~~(5) In case the holder of the certificate has been found 38335
guilty by the board of aiding and abetting another person or 38336

persons not properly registered as required by sections 4703.01 to 38337
4703.19 of the Revised Code, in the performance of activities that 38338
in any manner or extent constitute the practice of architecture. 38339

At any time after the expiration of six months from the date 38340
of the revocation or suspension of a certificate, the individual, 38341
firm, partnership, association, or corporation may apply for 38342
reinstatement of the certificate. Upon showing that all loss 38343
caused by the individual, firm, partnership, association, or 38344
corporation whose certificate has been revoked or suspended has 38345
been fully satisfied and that all conditions imposed by the 38346
revocation or suspension decision have been complied with, and 38347
upon the payment of all costs incurred by the board as a result of 38348
the case at issue, the board, at its discretion and upon evidence 38349
that in its opinion would so warrant, may restore the certificate. 38350

(B) In addition to disciplinary action the board may take 38351
against a certificate holder under division (A) of this section or 38352
section 4703.151 of the Revised Code, the board may impose a fine 38353
against a certificate holder who obtained a certificate by fraud 38354
or who is found guilty of any act specified in divisions (A)(2) to 38355
(A)(5) of this section or who violates any rule governing the 38356
standards of service, conduct, and practice adopted pursuant to 38357
section 4703.02 of the Revised Code. The fine imposed shall be not 38358
more than one thousand dollars for each offense but shall not 38359
exceed five thousand dollars regardless of the number of offenses 38360
the certificate holder has committed between the time the fine is 38361
imposed and the time any previous fine was imposed. 38362

Sec. 4705.09. (A)(1) Any person admitted to the practice of 38363
law in this state by order of the supreme court in accordance with 38364
its prescribed and published rules, or any law firm or legal 38365
professional association, may establish and maintain an 38366
interest-bearing trust account, for purposes of depositing client 38367

funds held by the attorney, firm, or association that are nominal 38368
in amount or are to be held by the attorney, firm, or association 38369
for a short period of time, with any bank or savings and loan 38370
association that is authorized to do business in this state and is 38371
insured by the federal deposit insurance corporation or the 38372
successor to that corporation, or any credit union insured by the 38373
national credit union administration operating under the "Federal 38374
Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751. Each 38375
account established under this division shall be in the name of 38376
the attorney, firm, or association that established and is 38377
maintaining it and shall be identified as an IOLTA or an interest 38378
on lawyer's trust account. The name of the account may contain 38379
additional identifying features to distinguish it from other trust 38380
accounts established and maintained by the attorney, firm, or 38381
association. 38382

(2) Each attorney who receives funds belonging to a client 38383
shall do one of the following: 38384

(a) Establish and maintain one or more interest-bearing trust 38385
accounts in accordance with division (A)(1) of this section or 38386
maintain one or more interest-bearing trust accounts previously 38387
established in accordance with that division, and deposit all 38388
client funds held that are nominal in amount or are to be held by 38389
the attorney for a short period of time in the account or 38390
accounts; 38391

(b) If the attorney is affiliated with a law firm or legal 38392
professional association, comply with division (A)(2)(a) of this 38393
section or deposit all client funds held that are nominal in 38394
amount or are to be held by the attorney for a short period of 38395
time in one or more interest-bearing trust accounts established 38396
and maintained by the firm or association in accordance with 38397
division (A)(1) of this section. 38398

(3) No funds belonging to any attorney, firm, or legal 38399

professional association shall be deposited in any 38400
interest-bearing ~~IOTA~~ IOLTA account established under division 38401
(A)(1) or (2) of this section, except that funds sufficient to pay 38402
or enable a waiver of depository institution service charges on 38403
the account shall be deposited in the account and other funds 38404
belonging to the attorney, firm, or association may be deposited 38405
as authorized by the Code of Professional Responsibility adopted 38406
by the supreme court. The determinations of whether funds held are 38407
nominal or more than nominal in amount and of whether funds are to 38408
be held for a short period or longer than a short period of time 38409
rests in the sound judgment of the particular attorney. No 38410
imputation of professional misconduct shall arise from the 38411
attorney's exercise of judgment in these matters. 38412

(B) All interest earned on funds deposited in an 38413
interest-bearing trust account established under division (A)(1) 38414
or (2) of this section shall be transmitted to the treasurer of 38415
state for deposit in the legal aid fund established under section 38416
120.52 of the Revised Code. No part of the interest earned on 38417
funds deposited in an interest-bearing trust account established 38418
under division (A)(1) or (2) of this section shall be paid to, or 38419
inure to the benefit of, the attorney, the attorney's law firm or 38420
legal professional association, the client or other person who 38421
owns or has a beneficial ownership of the funds deposited, or any 38422
other person other than in accordance with this section, section 38423
4705.10, and sections 120.51 to 120.55 of the Revised Code. 38424

(C) No liability arising out of any act or omission by any 38425
attorney, law firm, or legal professional association with respect 38426
to any interest-bearing trust account established under division 38427
(A)(1) or (2) of this section shall be imputed to the depository 38428
institution. 38429

(D) The supreme court may adopt and enforce rules of 38430
professional conduct that pertain to the use, by attorneys, law 38431

firms, or legal professional associations, of interest-bearing 38432
trust accounts established under division (A)(1) or (2) of this 38433
section, and that pertain to the enforcement of division (A)(2) of 38434
this section. Any rules adopted by the supreme court under this 38435
authority shall conform to the provisions of this section, section 38436
4705.10, and sections 120.51 to 120.55 of the Revised Code. 38437

Sec. 4709.05. In addition to any other duty imposed on the 38438
barber board under this chapter, the board shall do all of the 38439
following: 38440

(A) Organize by electing a chairperson from its members to 38441
serve a one-year term; 38442

(B) Hold regular meetings, at the times and places as it 38443
determines for the purpose of conducting the examinations required 38444
under this chapter, and hold additional meetings for the 38445
transaction of necessary business; 38446

(C) Provide for suitable quarters, in the city of Columbus, 38447
for the conduct of its business and the maintenance of its 38448
records; 38449

(D) Adopt a common seal for the authentication of its orders, 38450
communications, and records; 38451

(E) Maintain a record of its proceedings and a register of 38452
persons licensed as barbers. The register shall include each 38453
licensee's name, place of business, residence, and licensure date 38454
and number, and a record of all licenses issued, refused, renewed, 38455
suspended, or revoked. The records are open to public inspection 38456
at all reasonable times. 38457

(F) Annually, on or before the first day of January, make a 38458
report to the governor of all its official acts during the 38459
preceding year, its receipts and disbursements, recommendations it 38460
determines appropriate, and an evaluation of board activities 38461

intended to aid or protect consumers of barber services; 38462

(G) Employ an executive director who shall do all things 38463
requested by the board for the administration and enforcement of 38464
this chapter. The executive director shall employ inspectors, 38465
clerks, and other assistants as ~~he~~ the executive director 38466
determines necessary. 38467

(H) Ensure that the practice of barbering is conducted only 38468
in a licensed barber shop, except when the practice of barbering 38469
is performed on a person whose physical or mental disability 38470
prevents that person from going to a licensed barber shop; 38471

(I) Conduct or have conducted the examination for applicants 38472
to practice as licensed barbers at least four times per year at 38473
the times and places the board determines; 38474

(J) Adopt rules, in accordance with Chapter 119. of the 38475
Revised Code, to administer and enforce this chapter and which 38476
cover all of the following: 38477

(1) Sanitary standards for the operation of barber shops and 38478
barber schools that conform to guidelines established by the 38479
department of health; 38480

(2) The content of the examination required of an applicant 38481
for a barber license. The examination shall include a practical 38482
demonstration and a written test, shall relate only to the 38483
practice of barbering, and shall require the applicant to 38484
demonstrate that the applicant has a thorough knowledge of and 38485
competence in the proper techniques in the safe use of chemicals 38486
used in the practice of barbering. 38487

(3) Continuing education requirements for persons licensed 38488
pursuant to this chapter. The board may impose continuing 38489
education requirements upon a licensee for a violation of this 38490
chapter or the rules adopted pursuant thereto or if the board 38491

determines that the requirements are necessary to preserve the	38492
health, safety, or welfare of the public.	38493
(4) Requirements for the licensure of barber schools, barber	38494
teachers, and assistant barber teachers;	38495
(5) Requirements for students of barber schools;	38496
(6) Any other area the board determines appropriate to	38497
administer or enforce this chapter.	38498
(K) <u>Annually review the rules adopted pursuant to division</u>	38499
<u>(J) of this section in order to compare those rules with the rules</u>	38500
<u>adopted by the state board of cosmetology pursuant to section</u>	38501
<u>4713.08 of the Revised Code. If the barber board determines that</u>	38502
<u>the rules adopted by the state board of cosmetology, including,</u>	38503
<u>but not limited to, rules concerning using career technical</u>	38504
<u>schools, would be beneficial to the barbering profession, the</u>	38505
<u>barber board shall adopt rules similar to those it determines</u>	38506
<u>would be beneficial for barbers.</u>	38507
(L) Prior to adopting any rule under this chapter, indicate	38508
at a formal hearing the reasons why the rule is necessary as a	38509
protection of the persons who use barber services or as an	38510
improvement of the professional standing of barbers in this state;	38511
(L) (M) Furnish each owner or manager of a barber shop and	38512
barber school with a copy of all sanitary rules adopted pursuant	38513
to division (J) of this section;	38514
(M) (N) Conduct such investigations and inspections of persons	38515
and establishments licensed or unlicensed pursuant to this chapter	38516
and for that purpose, any member of the board or any of its	38517
authorized agents may enter and inspect any place of business of a	38518
licensee or a person suspected of violating this chapter or the	38519
rules adopted pursuant thereto, during normal business hours;	38520
(N) (O) Upon the written request of an applicant and the	38521

payment of the appropriate fee, provide to the applicant licensure 38522
information concerning the applicant; 38523

~~(O)~~(P) Do all things necessary for the proper administration 38524
and enforcement of this chapter. 38525

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the 38526
Revised Code: 38527

(A)(1) "Clinical laboratory services" means either of the 38528
following: 38529

(a) Any examination of materials derived from the human body 38530
for the purpose of providing information for the diagnosis, 38531
prevention, or treatment of any disease or impairment or for the 38532
assessment of health; 38533

(b) Procedures to determine, measure, or otherwise describe 38534
the presence or absence of various substances or organisms in the 38535
body. 38536

(2) "Clinical laboratory services" does not include the mere 38537
collection or preparation of specimens. 38538

(B) "Designated health services" means any of the following: 38539

(1) Clinical laboratory services; 38540

(2) Home health care services; 38541

(3) Outpatient prescription drugs. 38542

(C) "Fair market value" means the value in arms-length 38543
transactions, consistent with general market value and: 38544

(1) With respect to rentals or leases, the value of rental 38545
property for general commercial purposes, not taking into account 38546
its intended use; 38547

(2) With respect to a lease of space, not adjusted to reflect 38548
the additional value the prospective lessee or lessor would 38549

attribute to the proximity or convenience to the lessor if the 38550
lessor is a potential source of referrals to the lessee. 38551

(D) "Governmental health care program" means any program 38552
providing health care benefits that is administered by the federal 38553
government, this state, or a political subdivision of this state, 38554
including the medicare program established under Title XVIII of 38555
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 38556
as amended, health care coverage for public employees, health care 38557
benefits administered by the bureau of workers' compensation, or 38558
the medical assistance program established under Chapter 5111. of 38559
the Revised Code, ~~and the disability medical assistance program~~ 38560
~~established under Chapter 5115. of the Revised Code.~~ 38561

(E)(1) "Group practice" means a group of two or more holders 38562
of certificates under this chapter legally organized as a 38563
partnership, professional corporation or association, limited 38564
liability company, foundation, nonprofit corporation, faculty 38565
practice plan, or similar group practice entity, including an 38566
organization comprised of a nonprofit medical clinic that 38567
contracts with a professional corporation or association of 38568
physicians to provide medical services exclusively to patients of 38569
the clinic in order to comply with section 1701.03 of the Revised 38570
Code and including a corporation, limited liability company, 38571
partnership, or professional association described in division (B) 38572
of section 4731.226 of the Revised Code formed for the purpose of 38573
providing a combination of the professional services of 38574
optometrists who are licensed, certificated, or otherwise legally 38575
authorized to practice optometry under Chapter 4725. of the 38576
Revised Code, chiropractors who are licensed, certificated, or 38577
otherwise legally authorized to practice chiropractic under 38578
Chapter 4734. of the Revised Code, psychologists who are licensed, 38579
certificated, or otherwise legally authorized to practice 38580
psychology under Chapter 4732. of the Revised Code, registered or 38581

licensed practical nurses who are licensed, certificated, or 38582
otherwise legally authorized to practice nursing under Chapter 38583
4723. of the Revised Code, pharmacists who are licensed, 38584
certificated, or otherwise legally authorized to practice pharmacy 38585
under Chapter 4729. of the Revised Code, physical therapists who 38586
are licensed, certificated, or otherwise legally authorized to 38587
practice physical therapy under sections 4755.40 to 4755.53 of the 38588
Revised Code, mechanotherapists who are licensed, certificated, or 38589
otherwise legally authorized to practice mechanotherapy under 38590
section 4731.151 of the Revised Code, and doctors of medicine and 38591
surgery, osteopathic medicine and surgery, or podiatric medicine 38592
and surgery who are licensed, certificated, or otherwise legally 38593
authorized for their respective practices under this chapter, to 38594
which all of the following apply: 38595

(a) Each physician who is a member of the group practice 38596
provides substantially the full range of services that the 38597
physician routinely provides, including medical care, 38598
consultation, diagnosis, or treatment, through the joint use of 38599
shared office space, facilities, equipment, and personnel. 38600

(b) Substantially all of the services of the members of the 38601
group are provided through the group and are billed in the name of 38602
the group and amounts so received are treated as receipts of the 38603
group. 38604

(c) The overhead expenses of and the income from the practice 38605
are distributed in accordance with methods previously determined 38606
by members of the group. 38607

(d) The group practice meets any other requirements that the 38608
state medical board applies in rules adopted under section 4731.70 38609
of the Revised Code. 38610

(2) In the case of a faculty practice plan associated with a 38611
hospital with a medical residency training program in which 38612

physician members may provide a variety of specialty services and 38613
provide professional services both within and outside the group, 38614
as well as perform other tasks such as research, the criteria in 38615
division (E)(1) of this section apply only with respect to 38616
services rendered within the faculty practice plan. 38617

(F) "Home health care services" and "immediate family" have 38618
the same meanings as in the rules adopted under section 4731.70 of 38619
the Revised Code. 38620

(G) "Hospital" has the same meaning as in section 3727.01 of 38621
the Revised Code. 38622

(H) A "referral" includes both of the following: 38623

(1) A request by a holder of a certificate under this chapter 38624
for an item or service, including a request for a consultation 38625
with another physician and any test or procedure ordered by or to 38626
be performed by or under the supervision of the other physician; 38627

(2) A request for or establishment of a plan of care by a 38628
certificate holder that includes the provision of designated 38629
health services. 38630

(I) "Third-party payer" has the same meaning as in section 38631
3901.38 of the Revised Code. 38632

Sec. 4731.71. The auditor of state may implement procedures 38633
to detect violations of section 4731.66 or 4731.69 of the Revised 38634
Code within governmental health care programs administered by the 38635
state. The auditor of state shall report any violation of either 38636
section to the state medical board and shall certify to the 38637
attorney general in accordance with section 131.02 of the Revised 38638
Code the amount of any refund owed to a state-administered 38639
governmental health care program under section 4731.69 of the 38640
Revised Code as a result of a violation. If a refund is owed to 38641
the medical assistance program established under Chapter 5111. of 38642

the Revised Code ~~or the disability medical assistance program~~ 38643
~~established under Chapter 5115. of the Revised Code,~~ the auditor 38644
of state also shall report the amount to the department of 38645
commerce. 38646

The state medical board also may implement procedures to 38647
detect violations of section 4731.66 or 4731.69 of the Revised 38648
Code. 38649

Sec. 4736.11. The state board of sanitarian registration 38650
shall issue a certificate of registration to any applicant whom it 38651
registers as a sanitarian or a sanitarian-in-training. Such 38652
certificate shall bear: 38653

(A) The name of the person; 38654

(B) The date of issue; 38655

(C) A serial number, designated by the board; 38656

(D) The seal of the board and signature of the ~~chairman~~ 38657
chairperson of the board; 38658

(E) The designation "registered sanitarian" or 38659
"sanitarian-in-training." 38660

Certificates of registration shall expire annually on the 38661
date fixed by the board and become invalid on that date unless 38662
renewed pursuant to this section. All registered sanitarians shall 38663
be required annually to complete a continuing education program in 38664
subjects relating to practices of the profession as a sanitarian 38665
to the end that the utilization and application of new techniques, 38666
scientific advancements, and research findings will assure 38667
comprehensive service to the public. The board shall prescribe by 38668
rule a continuing education program for registered sanitarians to 38669
meet this requirement. The length of study for this program shall 38670
be determined by the board but shall be not less than six nor more 38671
than twenty-five hours during the calendar year. At least once 38672

annually the board shall ~~mail~~ provide to each registered
sanitarian a list of courses approved by the board as satisfying
the program prescribed by rule. Upon the request of a registered
sanitarian, the secretary shall supply a list of ~~any additional~~
applicable courses that the board has approved ~~since the most~~
~~recent mailing~~. A certificate may be renewed for a period of one
year at any time prior to the date of expiration upon payment of
the renewal fee prescribed by section 4736.12 of the Revised Code
and upon showing proof of having complied with the continuing
education requirements of this section. The state board of
sanitarian registration may waive the continuing education
requirement in cases of certified illness or disability which
prevents the attendance at any qualified educational seminars
during the twelve months immediately preceding the annual
certificate of registration renewal date. Certificates which
expire may be reinstated under rules adopted by the board.

Sec. 4736.12. (A) The state board of sanitarian registration
shall charge the following fees:

(1) To apply as a sanitarian-in-training, ~~seventy-five~~ eighty
dollars;

(2) For sanitarians-in-training to apply for registration as
sanitarians, ~~seventy-five~~ eighty dollars. The applicant shall pay
this fee only once regardless of the number of times the applicant
takes an examination required under section 4736.08 of the Revised
Code.

(3) For persons other than sanitarians-in-training to apply
for registration as sanitarians, including persons meeting the
requirements of section 4736.16 of the Revised Code, one hundred
~~fifty~~ sixty dollars. The applicant shall pay this fee only once
regardless of the number of times the applicant takes an
examination required under section 4736.08 of the Revised Code.

(4) The renewal fee for registered sanitarians shall be 38704
~~sixty-nine~~ seventy-four dollars. 38705

(5) The renewal fee for sanitarians-in-training shall be 38706
~~sixty-nine~~ seventy-four dollars. 38707

(6) For late application for renewal, ~~twenty-five~~ 38708
twenty-seven dollars. 38709

The board of sanitarian registration, with the approval of 38710
the controlling board, may establish fees in excess of the amounts 38711
provided in this section, provided that such fees do not exceed 38712
the amounts permitted by this section by more than fifty per cent. 38713

(B) The board of sanitarian registration shall charge 38714
separate fees for examinations as required by section 4736.08 of 38715
the Revised Code, provided that the fees are not in excess of the 38716
actual cost to the board of conducting the examinations. 38717

(C) The board of sanitarian registration may adopt rules 38718
establishing fees for all of the following: 38719

(1) Application for the registration of a training agency 38720
approved under rules adopted by the board pursuant to section 38721
4736.11 of the Revised Code and for the annual registration 38722
renewal of an approved training agency. 38723

(2) Application for the review of continuing education hours 38724
submitted for the board's approval by approved training agencies 38725
or by registered sanitarians or sanitarians-in-training. 38726

Sec. 4753.03. There is hereby created the board of 38727
speech-language pathology and audiology consisting of eight 38728
residents of this state to be appointed by the governor with the 38729
advice and consent of the senate. Three members of the board shall 38730
be licensed speech-language pathologists, and three members shall 38731
be licensed audiologists, who have been licensed and engaged in 38732
the practice, teaching, administration, or research in the area of 38733

appointment for at least five years prior to the dates of their 38734
appointment. Beginning with the first appointment of an 38735
audiologist to the board after ~~the effective date of this~~ 38736
~~amendment~~ November 5, 1992, at all times one of the audiologists 38737
serving on the board must be an audiologist engaged in the 38738
practice of fitting and dispensing hearing aids. At all times, two 38739
members shall be representatives of the general public, and 38740
neither shall be a speech-language pathologist or audiologist or a 38741
person licensed under this chapter. At least one of the members 38742
representing the general public shall be at least sixty years of 38743
age. ~~Any speech language pathologists and audiologists among the~~ 38744
~~initial appointees shall have at least a bachelor's degree in~~ 38745
~~speech language pathology or audiology and shall meet the~~ 38746
~~standards for licensure, other than examination, established by~~ 38747
~~section 4753.06 or 4753.08 of the Revised Code. Any~~ 38748
~~speech language pathologist or audiologist appointed to the board~~ 38749
~~after the effective date of this amendment, must hold a master's~~ 38750
~~or doctorate degree.~~ 38751

Terms of office shall be for three years, each term 38752
commencing on the twenty-seventh day of September and ending on 38753
the twenty-sixth day of September. Each member shall hold office 38754
from the date of ~~his~~ appointment until the end of the term for 38755
which ~~he was~~ appointed. Any member appointed to fill a vacancy 38756
occurring prior to the expiration of the term for which ~~his~~ the 38757
member's predecessor was appointed shall hold office for the 38758
remainder of such term. Any member shall continue in office 38759
subsequent to the expiration date of ~~his~~ the member's term until 38760
~~his~~ the member's successor takes office, or until a period of 38761
sixty days has elapsed, whichever occurs first. No person shall be 38762
appointed to serve consecutively more than two full terms. The 38763
executive council of the Ohio speech and hearing association may 38764
recommend, within forty-five days after any vacancy or expiration 38765
of a member's term occurs, no more than three persons to fill each 38766

position or vacancy on the board, and the governor may make ~~his~~ 38767
the appointment from the persons so recommended. If the council 38768
fails to make recommendations within the required time, the 38769
governor shall make the appointment without its recommendations. 38770

The terms of all speech-language pathology members shall not 38771
end in the same year; the terms of all audiology members shall not 38772
end in the same year. Upon the first appointment following ~~the~~ 38773
~~effective date of this amendment~~ November 5, 1992, the governor 38774
shall appoint speech-language pathology members and audiology 38775
members to one-, two-, or three-year terms to prevent the terms of 38776
all speech-language pathology members or all audiology members 38777
from ending in the same year. Thereafter, all terms shall be for 38778
three years. 38779

Sec. 4753.06. No person is eligible for licensure as a 38780
speech-language pathologist or audiologist unless: 38781

(A) ~~He~~ The person has obtained a broad general education to 38782
serve as a background for ~~his~~ the person's specialized academic 38783
training and preparatory professional experience. Such background 38784
may include study from among the areas of human psychology, 38785
sociology, psychological and physical development, the physical 38786
sciences, especially those that pertain to acoustic and biological 38787
phenomena, and human anatomy and physiology, including 38788
neuroanatomy and neurophysiology. 38789

(B) ~~He~~ If the person seeks licensure as a speech-language 38790
pathologist, the person submits to the board of speech-language 38791
pathology and audiology an official transcript demonstrating that 38792
~~he~~ the person has at least a master's degree in ~~the area in which~~ 38793
~~licensure is sought~~ speech-language pathology or the equivalent as 38794
determined by the board. ~~His~~ The person's academic credit must 38795
include course work accumulated in the completion of a 38796
well-integrated course of study approved by the board and 38797

delineated by rule dealing with the normal aspects of human 38798
communication, development and disorders thereof, and clinical 38799
techniques for the evaluation and the improvement or eradication 38800
of such disorders. The course work must have been completed at 38801
colleges or universities accredited by regional or national 38802
accrediting organizations recognized by the board. 38803

(C) ~~He~~ If the person seeks licensure as an audiologist, the 38804
person submits to the board an official transcript demonstrating 38805
that the person has at least a doctor of audiology degree or the 38806
equivalent as determined by the board. The person's academic 38807
credit must include course work accumulated in the completion of a 38808
well-integrated course of study approved by the board and 38809
delineated by rules dealing with the normal aspects of human 38810
hearing, balance, and related development and clinical evaluation, 38811
audiologic diagnosis, and treatment of disorders of human hearing, 38812
balance, and related development. The course work must have been 38813
completed in an audiology program that is accredited by an 38814
organization recognized by the United States department of 38815
education and operated by a college or university accredited by a 38816
regional or national accrediting organization recognized by the 38817
board. 38818

(D) The person submits to the board evidence of the 38819
completion of appropriate, supervised clinical experience in the 38820
professional area, speech-language pathology or audiology, for 38821
which licensure is requested, dealing with a variety of 38822
communication disorders. The appropriateness of the experience 38823
shall be determined under rules of the board. This experience 38824
shall have been obtained in an accredited college or university, 38825
in a cooperating program of an accredited college or university, 38826
or in another program approved by the board. 38827

~~(D) He~~ (E) The person submits to the board evidence that the 38828
person has passed the examination for licensure to practice 38829

speech-language pathology or audiology pursuant to division (B) of 38830
section 4753.05 of the Revised Code. 38831

(F) If the person submits to the board an application for 38832
licensure as an audiologist before January 1, 2006, and meets the 38833
requirements of division (B) of this section regarding a master's 38834
degree in audiology as that division existed on December 31, 2005, 38835
but not the requirements of division (C) of this section regarding 38836
a doctor of audiology degree or if the person seeks licensure as a 38837
speech-language pathologist, the person presents to the board 38838
written evidence that ~~he~~ the person has obtained professional 38839
experience. The professional experience shall be appropriately 38840
supervised as determined by board rule. The amount of professional 38841
experience shall be determined by board rule and shall be bona 38842
fide clinical work that has been accomplished in the major 38843
professional area, speech-language pathology or audiology, in 38844
which licensure is being sought. ~~This~~ If the person seeks 38845
licensure as a speech-language pathologist, this experience shall 38846
not begin until the requirements of divisions (B) ~~and (C), (D),~~ 38847
~~and (E)~~ of this section have been completed unless approved by the 38848
board. If the person seeks licensure as an audiologist, this 38849
experience shall not begin until the requirements of division (B) 38850
of this section, as that division existed on December 31, 2005, 38851
and divisions (D) and (E) of this section have been completed 38852
unless approved by the board. Before beginning the supervised 38853
professional experience pursuant to this section, ~~any~~ the 38854
applicant for licensure to practice speech-language pathology or 38855
audiology shall ~~meet the requirements for~~ obtain a conditional 38856
license pursuant to section 4753.071 of the Revised Code. 38857

~~(E) He submits to the board evidence that he has passed the~~ 38858
~~examination for licensure to practice speech-language pathology or~~ 38859
~~audiology pursuant to division (B) of section 4753.05 of the~~ 38860
~~Revised Code.~~ 38861

Sec. 4753.071. A person who is required to meet the supervised professional experience requirement of division (F) of section 4753.06 of the Revised Code shall submit to the board of speech-language pathology and audiology an application for a conditional license. The application shall include a plan for the content of the supervised professional experience on a form the board shall prescribe. The board of speech-language pathology and audiology shall issue a the conditional license to an the applicant who, except for the supervised professional experience: 38862
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~~(A) Meets if the applicant meets the academic, practicum, and examination requirements of divisions (B), (C), and (E) of section 4753.06 of the Revised Code:~~ 38871
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~~(B) Submits an application to the board, including a plan for the content of the supervised professional experience on a form prescribed by the board, other than the requirement to have obtained the supervised professional experience, and pays to the board the appropriate fee for a conditional license. An applicant may not begin employment until the conditional license has been approved issued.~~ 38874
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A conditional license authorizes an individual to practice speech-language pathology or audiology while completing the supervised professional experience as required by division ~~(D)~~(F) of section 4753.06 of the Revised Code. A person holding a conditional license may practice speech-language pathology or audiology while working under the supervision of a person fully licensed in accordance with this chapter. A conditional license is valid for eighteen months unless suspended or revoked pursuant to section 3123.47 or 4753.10 of the Revised Code. 38881
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A person holding a conditional license may perform services for which reimbursement will be sought under the medicare program established under Title XVIII of the "Social Security Act," ~~49~~ 79 38890
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Stat. ~~620 286~~ (1935 ~~1965~~), 42 U.S.C. ~~301 1395~~, as amended, or the 38893
~~medical assistance~~ medicaid program established under Chapter 38894
5111. of the Revised Code ~~and Title XIX of the "Social Security~~ 38895
~~Act"~~ but all requests for reimbursement for such services shall be 38896
made by the person who supervises the person performing the 38897
services. 38898

Sec. 4753.08. The board of speech-language pathology and 38899
audiology shall waive the examination, educational, and 38900
professional experience requirements for any applicant who meets 38901
any of the following requirements: 38902

(A) On September 26, 1975, has at least a bachelor's degree 38903
with a major in speech-language pathology or audiology from an 38904
accredited college or university, or who has been employed as a 38905
speech-language pathologist or audiologist for at least nine 38906
months at any time within the three years prior to September 26, 38907
1975, if an application providing bona fide proof of such degree 38908
or employment is filed with the board within one year after 38909
September 26, 1975, and is accompanied by the application fee as 38910
prescribed in division (A) of section 4753.11 of the Revised Code; 38911

(B) Presents proof of current certification or licensure in 38912
good standing in the area in which licensure is sought in a state 38913
~~which that~~ has standards at least equal to those the standards for 38914
licensure that are in effect in this state at the time the 38915
applicant applies for the license; 38916

(C) Presents proof of both of the following: 38917

(1) Having current certification or licensure in good 38918
standing in audiology in a state that has standards at least equal 38919
to the standards for licensure as an audiologist that were in 38920
effect in this state on December 31, 2005; 38921

(2) Having first obtained that certification or licensure not 38922

later than December 31, 2007. 38923

(D) Presents proof of a current certificate of clinical 38924
competence in speech-language pathology or audiology that is in 38925
good standing and received from the American 38926
speech-language-hearing association in the area in which licensure 38927
is sought. 38928

Sec. 4753.09. Except as provided in this section and in 38929
section 4753.10 of the Revised Code, a license issued by the board 38930
of speech-language pathology and audiology shall be renewed 38931
biennially in accordance with the standard renewal procedure 38932
contained in Chapter 4745. of the Revised Code. If the application 38933
for renewal is made ~~after~~ one year or longer after the renewal 38934
application is due, the person shall apply for licensure as 38935
provided in section 4753.06 or division (B) ~~or~~ (C), or (D) of 38936
section 4753.08 of the Revised Code. The board shall not renew a 38937
conditional license; however, the board may grant an applicant a 38938
second conditional license. 38939

The board shall establish by rule adopted pursuant to Chapter 38940
119. of the Revised Code the qualifications for license renewal. 38941
Applicants shall demonstrate continued competence, which may 38942
include continuing education, examination, self-evaluation, peer 38943
review, performance appraisal, or practical simulation. The board 38944
may establish other requirements as a condition for license 38945
renewal as considered appropriate by the board. 38946

The board may renew a license which expires while the license 38947
is suspended, but the renewal shall not affect the suspension. The 38948
board shall not renew a license which has been revoked. If a 38949
revoked license is reinstated under section 4753.10 of the Revised 38950
Code after it has expired, the licensee, as a condition of 38951
reinstatement, shall pay a reinstatement fee in the amount equal 38952
to the renewal fee in effect on the last preceding regular renewal 38953

date on which it is reinstated, plus any delinquent fees accrued 38954
from the time of the revocation, if such a fee is prescribed by 38955
the board by rule. ~~A license shall not be renewed six years after~~ 38956
~~the initial date on which the license was granted for a person~~ 38957
~~initially licensed by exemption until that person presents to the~~ 38958
~~board proof of completion of the following requirements:~~ 38959

~~(A) Upon presentation of proof of a bachelor's degree with a 38960
major in the area of licensure or successful completion of at 38961
least eighteen semester hours of academic credit, or its 38962
equivalent as determined by the board by rule for colleges and 38963
universities not using semesters, accumulated from accredited 38964
colleges and universities. These eighteen semester hours shall be 38965
in a variety of courses that provide instruction related to the 38966
nature of communication disorders and present information 38967
pertaining to and training in the evaluation and management of 38968
speech, language, and hearing disorders and shall be in the 38969
professional area, speech language pathology or audiology, for 38970
which licensure is requested.~~ 38971

~~(B) Successful completion of at least one hundred fifty clock 38972
hours of appropriately supervised, as determined by board rule, 38973
clinical experience in the professional area, speech language 38974
pathology or audiology, for which licensure is requested, with 38975
individuals who present a variety of communication disorders, and 38976
the experience shall have been obtained under the supervision of a 38977
licensed speech language pathologist or audiologist, or within 38978
another program approved by the board.~~ 38979

Sec. 4757.30. (A) The counselor, social worker, and marriage 38980
and family therapist board shall, after reviewing the report 38981
submitted to it by the marriage and family therapist professional 38982
standards committee, issue a license as a marriage and family 38983
therapist to a person who has done all of the following: 38984

(1) Properly completed an application for the license;	38985
(2) Paid the required fee established by the board under section 4757.31 of the Revised Code;	38986 38987
(3) Achieved one of the following:	38988
(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;	38989 38990 38991 38992
(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;	38993 38994 38995
(4) Passed an examination administered by the board for the purpose of determining the person's ability to be a marriage and family therapist;	38996 38997 38998
(5) Completed a practicum that includes at least three hundred hours of client contact.	38999 39000
(B) To be accepted by the committee for purposes of division (A)(3)(b) of this section, marriage and family therapist training must include instruction in at least the following: research, professional ethics, marriage and family studies, marriage and family therapy, human development, appraisal of individuals and families, and systems theory.	39001 39002 39003 39004 39005 39006
(C) The board shall, after reviewing the report submitted to it by the marriage and family therapist professional standards committee, issue a license as an independent marriage and family therapist to a person who meets all of the requirements of division (A) of this section and, after meeting the requirements under division (A)(3) of this section, completes at least two calendar years of work experience in marriage and family therapy, including one thousand hours of documented client contact in	39007 39008 39009 39010 39011 39012 39013 39014

marriage and family therapy. Two hundred hours of the one thousand 39015
hours must be supervised by a supervisor whose training and 39016
experience meets standards established by the board in rules 39017
adopted under section 4757.10 of the Revised Code and one hundred 39018
hours of the two hundred hours of supervision must be individual 39019
supervision. 39020

(D) The board shall waive the requirements of divisions 39021
(A)(4) and (B) of this section for an applicant seeking licensure 39022
under division (A) or (C) of this section for the two years 39023
immediately following ~~the effective date of this section~~ April 7, 39024
2003, if the applicant presents satisfactory evidence of both of 39025
the following: 39026

(1) That the applicant engaged in the practice of marriage 39027
and family therapy for a total of not less than five years prior 39028
to ~~the effective date of this section~~ April 7, 2003; 39029

(2) That, at the time of application, the applicant is an 39030
associate or clinical member of the American association of 39031
marriage and family therapists. 39032

(E) An independent marriage and family therapist or a 39033
marriage and family therapist may engage in the private practice 39034
of marriage and family therapy as an individual practitioner or as 39035
a member of a partnership or group practice. 39036

(F) A marriage and family therapist or independent marriage 39037
and family therapist may diagnose and treat mental and emotional 39038
disorders only under the supervision of a psychologist, 39039
psychiatrist, professional clinical counselor, or independent 39040
social worker, ~~or independent marriage and family therapist. An~~ 39041
~~independent marriage and family therapist may diagnose and treat~~ 39042
~~mental and emotional disorders without supervision.~~ 39043

(G) Nothing in this chapter or rules adopted under it 39044
authorizes an independent marriage and family therapist or a 39045

marriage and family therapist to admit a patient to a hospital or 39046
requires a hospital to allow a marriage and family therapist to 39047
admit a patient. 39048

Sec. 4775.04. (A) The board of motor vehicle collision repair 39049
registration shall do all of the following: 39050

(1) Adopt rules as necessary to carry out the purposes of 39051
this chapter. The rules shall include requirements for the type of 39052
liability insurance required under division (A) of section 4775.07 39053
of the Revised Code. The rules shall permit the use of an 39054
insurance policy issued by any insurer authorized to issue that 39055
type of insurance in this state. 39056

(2) Appoint an executive director to serve at the pleasure of 39057
the board; 39058

(3) Direct the executive director as to how the executive 39059
director shall perform the duties imposed under this chapter; 39060

(4) Consider and make recommendations in regard to all 39061
matters submitted to the board by the executive director; 39062

(5) Through the executive director or its enforcement agents, 39063
work with appropriate local fire departments and appropriate local 39064
certified building departments to locate persons operating places 39065
of business as a motor vehicle collision repair operator without a 39066
temporary or regular registration certificate issued under this 39067
chapter for that place of business; 39068

(6) Determine whether to refuse to issue or renew a 39069
registration certificate or determine whether to waive a 39070
suspension of a registration certificate as provided in division 39071
(D) of section 4775.07 of the Revised Code; 39072

~~(6)~~(7) Do all acts and perform all functions as are necessary 39073
for the administration and enforcement of this chapter. 39074

(B) Nothing in this chapter shall be interpreted as granting 39075
the board any authority over a motor vehicle collision repair 39076
operator concerning the quality of work performed in the repair 39077
of, or installation of parts on, motor vehicles. 39078

Sec. 4905.10. (A) For the sole purpose of maintaining and 39079
administering the public utilities commission and exercising its 39080
supervision and jurisdiction over the railroads and public 39081
utilities of this state, an amount equivalent to the appropriation 39082
from the public utilities fund created under division (B) of this 39083
section to the public utilities commission for railroad and public 39084
utilities regulation in each fiscal year shall be apportioned 39085
among and assessed against each railroad and public utility within 39086
this state by the commission by first computing an assessment as 39087
though it were to be made in proportion to the intrastate gross 39088
earnings or receipts, excluding earnings or receipts from sales to 39089
other public utilities for resale, of the railroad or public 39090
utility for the calendar year next preceding that in which the 39091
assessment is made. The commission may include in that first 39092
computation any amount of a railroad's or public utility's 39093
intrastate gross earnings or receipts that were underreported in a 39094
prior year. In addition to whatever penalties apply under the 39095
Revised Code to such underreporting, the commission shall assess 39096
the railroad or public utility interest at the rate stated in 39097
division (A) of section 1343.01 of the Revised Code. The 39098
commission shall deposit any interest so collected into the public 39099
utilities fund. The commission may exclude from that first 39100
computation any such amounts that were overreported in a prior 39101
year. 39102

The final computation of the assessment shall consist of 39103
imposing upon each railroad and public utility whose assessment 39104
under the first computation would have been ~~fifty~~ one hundred 39105

dollars or less an assessment of ~~fifty~~ one hundred dollars and 39106
recomputing the assessments of the remaining railroads and public 39107
utilities by apportioning an amount equal to the appropriation to 39108
the public utilities commission for administration of the 39109
utilities division in each fiscal year less the total amount to be 39110
recovered from those paying the minimum assessment, in proportion 39111
to the intrastate gross earnings or receipts of the remaining 39112
railroads and public utilities for the calendar year next 39113
preceding that in which the assessments are made. 39114

In the case of an assessment based on intrastate gross 39115
receipts under this section against a public utility that is an 39116
electric utility as defined in section 4928.01 of the Revised 39117
Code, or an electric services company, electric cooperative, or 39118
governmental aggregator subject to certification under section 39119
4928.08 of the Revised Code, such receipts shall be those 39120
specified in the utility's, company's, cooperative's, or 39121
aggregator's most recent report of intrastate gross receipts and 39122
sales of kilowatt hours of electricity, filed with the commission 39123
pursuant to division (F) of section 4928.06 of the Revised Code, 39124
and verified by the commission. 39125

In the case of an assessment based on intrastate gross 39126
receipts under this section against a retail natural gas supplier 39127
or governmental aggregator subject to certification under section 39128
4929.20 of the Revised Code, such receipts shall be those 39129
specified in the supplier's or aggregator's most recent report of 39130
intrastate gross receipts and sales of hundred cubic feet of 39131
natural gas, filed with the commission pursuant to division (B) of 39132
section 4929.23 of the Revised Code, and verified by the 39133
commission. However, no such retail natural gas supplier or such 39134
governmental aggregator serving or proposing to serve customers of 39135
a particular natural gas company, as defined in section 4929.01 of 39136
the Revised Code, shall be assessed under this section until after 39137

the commission, pursuant to section 4905.26 or 4909.18 of the
Revised Code, has removed from the base rates of the natural gas
company the amount of assessment under this section that is
attributable to the value of commodity sales service, as defined
in section 4929.01 of the Revised Code, in the base rates paid by
those customers of the company that do not purchase that service
from the natural gas company.

(B) ~~On~~ Through calendar year 2005, on or before the first day
of October in each year, the commission shall notify each such
railroad and public utility of the sum assessed against it,
whereupon payment shall be made to the commission, which shall
deposit it into the state treasury to the credit of the public
utilities fund, which is hereby created. Beginning in calendar
year 2006, on or before the fifteenth day of May in each year, the
commission shall notify each railroad and public utility that had
a sum assessed against it for the current fiscal year of more than
one thousand dollars that fifty per cent of that amount shall be
paid to the commission by the twentieth day of June of that year
as an initial payment of the assessment against the company for
the next fiscal year. On or before the first day of October in
each year, the commission shall make a final determination of the
sum of the assessment against each railroad and public utility and
shall notify each railroad and public utility of the sum assessed
against it. The commission shall deduct from the assessment for
each railroad or public utility any initial payment received.
Payment of the assessment shall be made to the commission by the
first day of November of that year. The commission shall deposit
the payments received into the state treasury to the credit of the
public utilities fund. Any such amounts paid into the fund but not
expended by the commission shall be credited ratably, after first
deducting any deficits accumulated from prior years, by the
commission to railroads and public utilities that pay more than

the minimum assessment, according to the respective portions of 39170
such sum assessable against them for the ensuing ~~calendar~~ fiscal 39171
year. The assessments for such ~~calendar~~ fiscal year shall be 39172
reduced correspondingly. 39173

(C) Within five days after the beginning of each fiscal year 39174
through fiscal year 2006, the director of budget and management 39175
shall transfer from the general revenue fund to the public 39176
utilities fund an amount sufficient for maintaining and 39177
administering the public utilities commission and exercising its 39178
supervision and jurisdiction over the railroads and public 39179
utilities of the state during the first four months of the fiscal 39180
year. The director shall transfer the same amount back to the 39181
general revenue fund from the public utilities fund at such time 39182
as the director determines that the balance of the public 39183
utilities fund is sufficient to support the appropriations from 39184
the fund for the fiscal year. The director may transfer less than 39185
that amount if the director determines that the revenues of the 39186
public utilities fund during the fiscal year will be insufficient 39187
to support the appropriations from the fund for the fiscal year, 39188
in which case the amount not paid back to the general revenue fund 39189
shall be payable to the general revenue fund in future fiscal 39190
years. 39191

(D) For the purpose of this section only, "public utility" 39192
includes: 39193

(1) In addition to an electric utility as defined in section 39194
4928.01 of the Revised Code, an electric services company, an 39195
electric cooperative, or a governmental aggregator subject to 39196
certification under section 4928.08 of the Revised Code, to the 39197
extent of the company's, cooperative's, or aggregator's engagement 39198
in the business of supplying or arranging for the supply in this 39199
state of any retail electric service for which it must be so 39200
certified; 39201

(2) In addition to a natural gas company as defined in 39202
section 4929.01 of the Revised Code, a retail natural gas supplier 39203
or governmental aggregator subject to certification under section 39204
4929.20 of the Revised Code, to the extent of the supplier's or 39205
aggregator's engagement in the business of supplying or arranging 39206
for the supply in this state of any competitive retail natural gas 39207
service for which it must be certified. 39208

(E) Each public utilities commissioner shall receive a salary 39209
fixed at the level set by pay range 49 under schedule E-2 of 39210
section 124.152 of the Revised Code. 39211

Sec. 4905.261. The public utilities commission shall operate 39212
a telephone call center for consumer complaints, to receive 39213
complaints by any person, firm, or corporation against any public 39214
utility. 39215

Sec. 4905.54. Every public utility or railroad and every 39216
officer of a public utility or railroad shall comply with every 39217
order, direction, and requirement of the public utilities 39218
commission made under authority of this chapter and Chapters 39219
4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, 39220
so long as they remain in force. Except as otherwise specifically 39221
provided in sections 4905.83, 4905.95, 4919.99, 4921.99, and 39222
4923.99 of the Revised Code, the public utilities commission may 39223
assess a forfeiture of not more than ten thousand dollars for each 39224
violation or failure against a public utility or railroad that 39225
violates a provision of those chapters or that after due notice 39226
fails to comply with an order, direction, or requirement of the 39227
commission that was officially promulgated ~~shall forfeit to the 39228~~
~~state not more than one thousand dollars for each such violation 39229~~
~~or failure.~~ Each day's continuance of the violation or failure is 39230
a separate offense. All forfeitures collected under this section 39231

shall be credited to the general revenue fund. 39232

Sec. 4905.95. (A) Except as otherwise provided in division 39233
(C) of this section: 39234

(1) The public utilities commission, regarding any proceeding 39235
under this section, shall provide reasonable notice and the 39236
opportunity for a hearing in accordance with rules adopted under 39237
section 4901.13 of the Revised Code. 39238

(2) Sections 4903.02 to 4903.082, 4903.09 to 4903.16, and 39239
4903.20 to 4903.23 of the Revised Code apply to all proceedings 39240
and orders of the commission under this section and to all 39241
operators subject to those proceedings and orders. 39242

(B) If, pursuant to a proceeding it specially initiates or to 39243
any other proceeding and after the hearing provided for under 39244
division (A) of this section, the commission finds that: 39245

(1) An operator has violated or failed to comply with, or is 39246
violating or failing to comply with, sections 4905.90 to 4905.96 39247
of the Revised Code or the pipe-line safety code, the commission 39248
by order: 39249

(a) Shall require the operator to comply and to undertake 39250
corrective action necessary to protect the public safety; 39251

(b) May assess upon the operator forfeitures of not more than 39252
~~ten~~ one hundred thousand dollars for each day of each violation or 39253
noncompliance, except that the aggregate of such forfeitures shall 39254
not exceed ~~five hundred thousand~~ one million dollars for any 39255
related series of violations or noncompliances. In determining the 39256
amount of any such forfeiture, the commission shall consider all 39257
of the following: 39258

(i) The gravity of the violation or noncompliance; 39259

(ii) The operator's history of prior violations or 39260
noncompliances; 39261

(iii) The operator's good faith efforts to comply and undertake corrective action;	39262 39263
(iv) The operator's ability to pay the forfeiture;	39264
(v) The effect of the forfeiture on the operator's ability to continue as an operator;	39265 39266
(vi) Such other matters as justice may require.	39267
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.	39268 39269 39270
(c) May direct the attorney general to seek the remedies provided in section 4905.96 of the Revised Code.	39271 39272
(2) An intrastate pipe-line transportation facility is hazardous to life or property, the commission by order:	39273 39274
(a) Shall require the operator of the facility to take corrective action to remove the hazard. Such corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action.	39275 39276 39277 39278
(b) May direct the attorney general to seek the remedies provided in section 4905.96 of the Revised Code.	39279 39280
(C) If, pursuant to a proceeding it specially initiates or to any other proceeding, the commission finds that an emergency exists due to a condition on an intrastate pipe-line transportation facility posing a clear and immediate danger to life or health or threatening a significant loss of property and requiring immediate corrective action to protect the public safety, the commission may issue, without notice or prior hearing, an order reciting its finding and may direct the attorney general to seek the remedies provided in section 4905.96 of the Revised Code. The order shall remain in effect for not more than forty days after the date of its issuance. The order shall provide for a	39281 39282 39283 39284 39285 39286 39287 39288 39289 39290 39291

hearing as soon as possible, but not later than thirty days after 39292
the date of its issuance. After the hearing the commission shall 39293
continue, revoke, or modify the order and may make findings under 39294
and seek appropriate remedies as provided in division (B) of this 39295
section. 39296

Sec. 4911.02. (A) The consumers' counsel shall be appointed 39297
by the consumers' counsel governing board, and shall hold office 39298
at the pleasure of the board. 39299

(B)(1) The counsel may sue or be sued and has the powers and 39300
duties granted ~~him~~ the counsel under this chapter, and all 39301
necessary powers to carry out the purposes of this chapter. 39302

(2) Without limitation because of enumeration, the counsel: 39303

(a) Shall have all the rights and powers of any party in 39304
interest appearing before the public utilities commission 39305
regarding examination and cross-examination of witnesses, 39306
presentation of evidence, and other matters; 39307

(b) May take appropriate action with respect to written 39308
residential consumer complaints concerning quality of service, 39309
service charges, and the operation of the public utilities 39310
commission; 39311

(c) May institute, intervene in, or otherwise participate in 39312
proceedings in both state and federal courts and administrative 39313
agencies on behalf of the residential consumers concerning review 39314
of decisions rendered by, or failure to act by, the public 39315
utilities commission; 39316

(d) May conduct long range studies concerning various topics 39317
relevant to the rates charged to ~~residential~~ residential consumers. 39318

Sec. 4911.021. The consumers' counsel shall not operate a 39319
telephone call consumer response center for residential consumer 39320

complaints. Any calls received by the consumers' counsel 39321
concerning residential consumer complaints shall be forwarded to 39322
the public utilities commission's call center. 39323

Sec. 4911.18. (A) For the sole purpose of maintaining and 39324
administering the office of the consumers' counsel and exercising 39325
the powers of the consumers' counsel under this chapter, an amount 39326
equal to the appropriation to the office of the consumers' counsel 39327
in each fiscal year shall be apportioned among and assessed 39328
against each public utility within this state, as defined in 39329
section 4911.01 of the Revised Code, by first computing an 39330
assessment as though it were to be made in proportion to the 39331
intrastate gross earnings or receipts of the public utility for 39332
the calendar year next preceding that in which the assessment is 39333
made, excluding earnings or receipts from sales to other public 39334
utilities for resale. The office may include in that first 39335
computation any amount of a public utility's intrastate gross 39336
earnings or receipts underreported in a prior year. In addition to 39337
whatever penalties apply under the Revised Code to such 39338
underreporting, the office shall assess the public utility 39339
interest at the rate stated in division (A) of section 1343.01 of 39340
the Revised Code. The office shall deposit any interest so 39341
collected into the consumers' counsel operating fund. The office 39342
may exclude from that first computation any such amounts that were 39343
over-reported in a prior year. 39344

The final computation of the assessment shall consist of 39345
imposing upon each public utility whose assessment under the first 39346
computation would have been ~~fifty~~ one hundred dollars or less an 39347
assessment of ~~fifty~~ one hundred dollars and recomputing the 39348
assessment of the remaining companies by apportioning an amount 39349
equal to the appropriation to the office of consumers' counsel in 39350
each fiscal year less the total amount to be recovered from those 39351

paying the minimum assessment, in proportion to the intrastate 39352
gross earnings or receipts of the remaining companies for the 39353
calendar year next preceding that in which the assessments are 39354
made, excluding earnings or receipts from sales to other public 39355
utilities for resale. 39356

In the case of an assessment based on intrastate gross 39357
receipts under this section against a public utility that is an 39358
electric utility as defined in section 4928.01 of the Revised 39359
Code, or an electric services company, electric cooperative, or 39360
governmental aggregator subject to certification under section 39361
4928.08 of the Revised Code, such receipts shall be those 39362
specified in the utility's, company's, cooperative's, or 39363
aggregator's most recent report of intrastate gross receipts and 39364
sales of kilowatt hours of electricity, filed with the public 39365
utilities commission pursuant to division (F) of section 4928.06 39366
of the Revised Code, and verified by the commission. 39367

In the case of an assessment based on intrastate gross 39368
receipts under this section against a retail natural gas supplier 39369
or governmental aggregator subject to certification under section 39370
4929.20 of the Revised Code, such receipts shall be those 39371
specified in the supplier's or aggregator's most recent report of 39372
intrastate gross receipts and sales of hundred cubic feet of 39373
natural gas, filed with the commission pursuant to division (B) of 39374
section 4929.23 of the Revised Code, and verified by the 39375
commission. However, no such retail natural gas supplier or such 39376
governmental aggregator serving or proposing to serve customers of 39377
a particular natural gas company, as defined in section 4929.01 of 39378
the Revised Code, shall be assessed under this section until after 39379
the commission, pursuant to section 4905.26 or 4909.18 of the 39380
Revised Code, has removed from the base rates of the natural gas 39381
company the amount of assessment under this section that is 39382
attributable to the value of commodity sales service, as defined 39383

in section 4929.01 of the Revised Code, in the base rates paid by 39384
those customers of the company that do not purchase that service 39385
from the natural gas company. 39386

(B) ~~On~~ Through calendar year 2005, on or before the first day 39387
of October in each year, the office of consumers' counsel shall 39388
notify each public utility of the sum assessed against it, 39389
whereupon payment shall be made to the counsel, who shall deposit 39390
it into the state treasury to the credit of the consumers' counsel 39391
operating fund, which is hereby created. Beginning in calendar 39392
year 2006, on or before the fifteenth day of May in each year, the 39393
consumers' counsel shall notify each public utility that had a sum 39394
assessed against it for the current fiscal year of more than one 39395
thousand dollars that fifty per cent of that amount shall be paid 39396
to the consumers' counsel by the twentieth day of June of that 39397
year as an initial payment of the assessment against the company 39398
for the next fiscal year. On or before the first day of October in 39399
each year, the consumers' counsel shall make a final determination 39400
of the sum of the assessment against each public utility and shall 39401
notify each public utility of the sum assessed against it. The 39402
consumers' counsel shall deduct from the assessment for each 39403
public utility any initial payment received. Payment of the 39404
assessment shall be made to the consumers' counsel by the first 39405
day of November of that year. The consumers' counsel shall deposit 39406
the payments received into the state treasury to the credit of the 39407
consumers' counsel operating fund. Any such amounts paid into the 39408
fund but not expended by the office shall be credited ratably by 39409
the office to the public utilities that pay more than the minimum 39410
assessment, according to the respective portions of such sum 39411
assessable against them for the ensuing ~~calendar~~ fiscal year, 39412
after first deducting any deficits accumulated from prior years. 39413
The assessments for such ~~calendar~~ fiscal year shall be reduced 39414
correspondingly. 39415

(C) Within five days after the beginning of each fiscal year 39416
through fiscal year 2006, the director of budget and management 39417
shall transfer from the general revenue fund to the consumers' 39418
counsel operating fund an amount sufficient for maintaining and 39419
administering the office of the consumers' counsel and exercising 39420
the powers of the consumers' counsel under this chapter during the 39421
first four months of the fiscal year. Not later than the 39422
thirty-first day of December of the fiscal year, the same amount 39423
shall be transferred back to the general revenue fund from the 39424
consumers' counsel operating fund. 39425

(D) As used in this section, "public utility" includes: 39426

(1) In addition to an electric utility as defined in section 39427
4928.01 of the Revised Code, an electric services company, an 39428
electric cooperative, or a governmental aggregator subject to 39429
certification under section 4928.08 of the Revised Code, to the 39430
extent of the company's, cooperative's, or aggregator's engagement 39431
in the business of supplying or arranging for the supply in this 39432
state of any retail electric service for which it must be so 39433
certified; 39434

(2) In addition to a natural gas company as defined in 39435
section 4929.01 of the Revised Code, a retail natural gas supplier 39436
or governmental aggregator subject to certification under section 39437
4929.20 of the Revised Code, to the extent of the supplier's or 39438
aggregator's engagement in the business of supplying or arranging 39439
for the supply in this state of any competitive retail natural gas 39440
service for which it must be certified. 39441

Sec. 4973.171. (A) As used in this section, "felony" has the 39442
same meaning as in section 109.511 of the Revised Code. 39443

(B)(1) The ~~governor~~ secretary of state shall not appoint or 39444
commission a person as a police officer for a railroad company 39445

under division (B) of section 4973.17 of the Revised Code and 39446
shall not appoint or commission a person as a police officer for a 39447
hospital under division (D) of section 4973.17 of the Revised Code 39448
on a permanent basis, on a temporary basis, for a probationary 39449
term, or on other than a permanent basis if the person previously 39450
has been convicted of or has pleaded guilty to a felony. 39451

(2)(a) The ~~governor~~ secretary of state shall revoke the 39452
appointment or commission of a person appointed or commissioned as 39453
a police officer for a railroad company or as a police officer for 39454
a hospital under division (B) or (D) of section 4973.17 of the 39455
Revised Code if that person does either of the following: 39456

(i) Pleads guilty to a felony; 39457

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 39458
plea agreement as provided in division (D) of section 2929.43 of 39459
the Revised Code in which the person agrees to surrender the 39460
certificate awarded to that person under section 109.77 of the 39461
Revised Code. 39462

(b) The ~~governor~~ secretary of state shall suspend the 39463
appointment or commission of a person appointed or commissioned as 39464
a police officer for a railroad company or as a police officer for 39465
a hospital under division (B) or (D) of section 4973.17 of the 39466
Revised Code if that person is convicted, after trial, of a 39467
felony. If the person files an appeal from that conviction and the 39468
conviction is upheld by the highest court to which the appeal is 39469
taken or if the person does not file a timely appeal, the ~~governor~~ 39470
secretary of state shall revoke the appointment or commission of 39471
that person as a police officer for a railroad company or as a 39472
police officer for a hospital. If the person files an appeal that 39473
results in that person's acquittal of the felony or conviction of 39474
a misdemeanor, or in the dismissal of the felony charge against 39475
that person, the ~~governor~~ secretary of state shall reinstate the 39476
appointment or commission of that person as a police officer for a 39477

railroad company or as a police officer for a hospital. A person 39478
whose appointment or commission is reinstated under division 39479
(B)(2)(b) of this section shall not receive any back pay unless 39480
that person's conviction of the felony was reversed on appeal, or 39481
the felony charge was dismissed, because the court found 39482
insufficient evidence to convict the person of the felony. 39483

(3) Division (B) of this section does not apply regarding an 39484
offense that was committed prior to January 1, 1997. 39485

(4) The suspension or revocation of the appointment or 39486
commission of a person as a police officer for a railroad company 39487
or as a police officer for a hospital under division (B)(2) of 39488
this section shall be in accordance with Chapter 119. of the 39489
Revised Code. 39490

Sec. 5101.07. There is hereby created in the state treasury 39491
the support services federal operating fund. The fund shall 39492
consist of federal funds the department of job and family services 39493
receives and that the director of job and family services 39494
determines are appropriate for deposit into the fund. Money in the 39495
fund shall be used to pay the federal share of both of the 39496
following: 39497

(A) The department's costs for computer projects; 39498

(B) The operating costs of the parts of the department that 39499
provide general support services for the department's work units 39500
established under section 5101.06 of the Revised Code. 39501

Sec. 5101.071. There is hereby created in the state treasury 39502
the support services state operating fund. The fund shall consist 39503
of payments made to the fund from other appropriation items by 39504
intrastate transfer voucher. Money in the fund shall be used to 39505
pay for both of the following: 39506

(A) The department of job and family services' costs for 39507

<u>computer projects;</u>	39508
<u>(B) The operating costs of the parts of the department that</u>	39509
<u>provide general support services for the department's work units</u>	39510
<u>established under section 5101.06 of the Revised Code.</u>	39511
Sec. 5101.181. (A) As used in this section and section	39512
5101.182 of the Revised Code, "public assistance" includes, in	39513
addition to Ohio works first, all of the following:	39514
(1) Prevention, retention, and contingency;	39515
(2) Medicaid;	39516
(3) Disability financial assistance;	39517
(4) Disability medical assistance <u>provided before October 1,</u>	39518
<u>2005, under former Chapter 5115. of the Revised Code;</u>	39519
(5) General assistance provided prior to July 17, 1995, under	39520
former Chapter 5113. of the Revised Code.	39521
(B) As part of the procedure for the determination of	39522
overpayment to a recipient of public assistance under Chapter	39523
5107., 5108., 5111., or 5115. of the Revised Code, the director of	39524
job and family services shall furnish quarterly the name and	39525
social security number of each individual who receives public	39526
assistance to the director of administrative services, the	39527
administrator of the bureau of workers' compensation, and each of	39528
the state's retirement boards. Within fourteen days after	39529
receiving the name and social security number of an individual who	39530
receives public assistance, the director of administrative	39531
services, administrator, or board shall inform the auditor of	39532
state as to whether such individual is receiving wages or	39533
benefits, the amount of any wages or benefits being received, the	39534
social security number, and the address of the individual. The	39535
director of administrative services, administrator, boards, and	39536
any agent or employee of those officials and boards shall comply	39537

with the rules of the director of job and family services 39538
restricting the disclosure of information regarding recipients of 39539
public assistance. Any person who violates this provision shall 39540
thereafter be disqualified from acting as an agent or employee or 39541
in any other capacity under appointment or employment of any state 39542
board, commission, or agency. 39543

(C) The auditor of state may enter into a reciprocal 39544
agreement with the director of job and family services or 39545
comparable officer of any other state for the exchange of names, 39546
current or most recent addresses, or social security numbers of 39547
persons receiving public assistance under Title IV-A or under 39548
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 39549
U.S.C. 301, as amended. 39550

(D)(1) The auditor of state shall retain, for not less than 39551
two years, at least one copy of all information received under 39552
this section and sections 145.27, 742.41, 3307.20, 3309.22, 39553
4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor 39554
shall review the information to determine whether overpayments 39555
were made to recipients of public assistance under Chapters 5107., 39556
5108., 5111., and 5115. of the Revised Code. The auditor of state 39557
shall initiate action leading to prosecution, where warranted, of 39558
recipients who received overpayments by forwarding the name of 39559
each recipient who received overpayment, together with other 39560
pertinent information, to the director of job and family services 39561
and the attorney general, to the district director of job and 39562
family services of the district through which public assistance 39563
was received, and to the county director of job and family 39564
services and county prosecutor of the county through which public 39565
assistance was received. 39566

(2) The auditor of state and the attorney general or their 39567
designees may examine any records, whether in computer or printed 39568
format, in the possession of the director of job and family 39569

services or any county director of job and family services. They 39570
shall provide safeguards which restrict access to such records to 39571
purposes directly connected with an audit or investigation, 39572
prosecution, or criminal or civil proceeding conducted in 39573
connection with the administration of the programs and shall 39574
comply with the rules of the director of job and family services 39575
restricting the disclosure of information regarding recipients of 39576
public assistance. Any person who violates this provision shall 39577
thereafter be disqualified from acting as an agent or employee or 39578
in any other capacity under appointment or employment of any state 39579
board, commission, or agency. 39580

(3) Costs incurred by the auditor of state in carrying out 39581
the auditor of state's duties under this division shall be borne 39582
by the auditor of state. 39583

Sec. 5101.21. (A) As used in this section, "county signer" 39584
means all of the following: 39585

(1) A board of county commissioners; 39586

(2) A county children services board appointed under section 39587
5153.03 of the Revised Code if required by division (B) of this 39588
section to enter into a fiscal agreement; 39589

(3) A county elected official that is a child support 39590
enforcement agency if required by division (B) of this section to 39591
enter into a fiscal agreement. 39592

(B) The director of job and family services may enter into 39593
one or more written fiscal agreements with boards of county 39594
commissioners under which financial assistance is awarded for 39595
family services duties included in the agreements. Boards of 39596
county commissioners shall select which family services duties to 39597
include in a fiscal agreement. If a board of county commissioners 39598
elects to include family services duties of a public children 39599

services agency and a county children services board appointed 39600
under section 5153.03 of the Revised Code serves as the county's 39601
public children services agency, the board of county commissioners 39602
and county children services board shall jointly enter into the 39603
fiscal agreement with the director. If a board of county 39604
commissioners elects to include family services duties of a child 39605
support enforcement agency and the entity designated under former 39606
section 2301.35 of the Revised Code prior to October 1, 1997, or 39607
designated under section 307.981 of the Revised Code as the 39608
county's child support enforcement agency is an elected official 39609
of the county, the board of county commissioners and county 39610
elected official shall jointly enter into the fiscal agreement 39611
with the director. A fiscal agreement shall do all of the 39612
following: 39613

(1) Specify the family services duties included in the 39614
agreement and the private and government entities designated under 39615
section 307.981 of the Revised Code to serve as the county family 39616
services agencies performing the family services duties; 39617

(2) Provide for the department of job and family services to 39618
award financial assistance for the family services duties included 39619
in the agreement in accordance with a methodology for determining 39620
the amount of the award established by rules adopted under 39621
division (D) of this section; 39622

(3) Specify the form of the award of financial assistance 39623
which may be an allocation, cash draw, reimbursement, property, 39624
or, to the extent authorized by an appropriation made by the 39625
general assembly and to the extent practicable and not in conflict 39626
with a federal or state law, a consolidated funding allocation for 39627
two or more family services duties included in the agreement; 39628

(4) Provide that the award of financial assistance is subject 39629
to the availability of federal funds and appropriations made by 39630

the general assembly; 39631

(5) Specify annual financial, administrative, or other 39632
incentive awards, if any, to be provided in accordance with 39633
section 5101.23 of the Revised Code; 39634

(6) Include the assurance of each county signer that the 39635
county signer will do all of the following: 39636

(a) Ensure that the financial assistance awarded under the 39637
agreement is used, and the family services duties included in the 39638
agreement are performed, in accordance with requirements for the 39639
duties established by the department, a federal or state law, or 39640
any of the following that concern the family services duties 39641
included in the fiscal agreement and are published under section 39642
5101.212 of the Revised Code: state plans for receipt of federal 39643
financial participation, grant agreements between the department 39644
and a federal agency, and executive orders issued by the governor; 39645

(b) Ensure that the board and county family services agencies 39646
utilize a financial management system and other accountability 39647
mechanisms for the financial assistance awarded under the 39648
agreement that meet requirements the department establishes; 39649

(c) Require the county family services agencies to do both of 39650
the following: 39651

(i) Monitor all private and government entities that receive 39652
a payment from financial assistance awarded under the agreement to 39653
ensure that each entity uses the payment in accordance with 39654
requirements for the family services duties included in the 39655
agreement; 39656

(ii) Take action to recover payments that are not used in 39657
accordance with the requirements for the family services duties 39658
included in the agreement. 39659

(d) Require county family services agencies to promptly 39660

reimburse the department the amount that represents the amount an 39661
agency is responsible for, pursuant to action the department takes 39662
under division (C) of section 5101.24 of the Revised Code, of 39663
funds the department pays to any entity because of an adverse 39664
audit finding, adverse quality control finding, final disallowance 39665
of federal financial participation, or other sanction or penalty; 39666

(e) Require county family services agencies to take prompt 39667
corrective action, including paying amounts resulting from an 39668
adverse finding, sanction, or penalty, if the department, auditor 39669
of state, federal agency, or other entity authorized by federal or 39670
state law to determine compliance with requirements for a family 39671
services duty included in the agreement determines compliance has 39672
not been achieved+ 39673

~~(f) If the department establishes a consolidated funding 39674
allocation for two or more family services duties included in the 39675
agreement, require the county family services agencies to use 39676
funds available in the consolidated funding allocation only for 39677
the purpose for which the funds are appropriated. 39678~~

(7) Provide for the department taking action pursuant to 39679
division (C) of section 5101.24 of the Revised Code if authorized 39680
by division (B)(1), (2), (3), or (4) of that section; 39681

(8) Provide for timely audits required by federal and state 39682
law and require prompt release of audit findings and prompt action 39683
to correct problems identified in an audit; 39684

(9) Comply with all of the requirements for the family 39685
services duties that are included in the agreement and have been 39686
established by the department, federal or state law, or any of the 39687
following that concern the family services duties included in the 39688
fiscal agreement and are published under section 5101.212 of the 39689
Revised Code: state plans for receipt of federal financial 39690
participation, grant agreements between the department and a 39691

federal agency, and executive orders issued by the governor;	39692
(10) Provide for dispute resolution procedures in accordance with section 5101.24 of the Revised Code;	39693 39694
(11) Establish the method of amending or terminating the agreement and an expedited process for correcting terms or conditions of the agreement that the director and each county signer agree are erroneous;	39695 39696 39697 39698
(12) Except as provided in rules adopted under division (D) of this section, begin on the first day of July of an odd-numbered year and end on the last day of June of the next odd-numbered year.	39699 39700 39701 39702
(C) The department shall make payments authorized by a fiscal agreement on vouchers it prepares and may include any funds appropriated or allocated to it for carrying out family services duties included in the agreement, including funds for personal services and maintenance.	39703 39704 39705 39706 39707
(D)(1) The director shall adopt rules in accordance with section 111.15 of the Revised Code governing fiscal agreements. The director shall adopt the rules as if they were internal management rules. Before adopting the rules, the director shall give the public an opportunity to review and comment on the proposed rules. The rules shall establish methodologies to be used to determine the amount of financial assistance to be awarded under the agreements. The rules also shall establish terms and conditions under which an agreement may be entered into after the first day of July of an odd-numbered year. The rules may do any or all of the following:	39708 39709 39710 39711 39712 39713 39714 39715 39716 39717 39718
(a) Govern the establishment of consolidated funding allocations and specify the time period for which a consolidated funding allocation is to be provided if the effective date of the agreement is after the first day of July of an odd numbered year,	39719 39720 39721 39722

~~which may include a time period before the effective date of the~~ 39723
~~agreement;~~ 39724

~~(b)~~ Govern the establishment of ~~other~~ allocations; 39725

~~(e)~~(b) Specify allowable uses of financial assistance awarded 39726
under the agreements; 39727

~~(d)~~(c) Establish reporting, cash management, audit, and other 39728
requirements the director determines are necessary to provide 39729
accountability for the use of financial assistance awarded under 39730
the agreements and determine compliance with requirements 39731
established by the department, a federal or state law, or any of 39732
the following that concern the family services duties included in 39733
the agreements and are published under section 5101.212 of the 39734
Revised Code: state plans for receipt of federal financial 39735
participation, grant agreements between the department and a 39736
federal entity, and executive orders issued by the governor. 39737

(2) A requirement of a fiscal agreement established by a rule 39738
adopted under this division is applicable to a fiscal agreement 39739
without having to be restated in the fiscal agreement. 39740

Sec. 5101.24. (A) As used in this section, "responsible 39741
entity" means a board of county commissioners or a county family 39742
services agency, whichever the director of job and family services 39743
determines is appropriate to take action against under division 39744
(C) of this section. 39745

(B) Regardless of whether a family services duty is performed 39746
by a county family services agency, private or government entity 39747
pursuant to a contract entered into under section 307.982 of the 39748
Revised Code or division (C)(2) of section 5153.16 of the Revised 39749
Code, or private or government provider of a family service duty, 39750
the department of job and family services may take action under 39751
division (C) of this section against the responsible entity if the 39752

department determines any of the following are the case: 39753

(1) A requirement of a fiscal agreement entered into under 39754
section 5101.21 of the Revised Code that includes the family 39755
services duty, including a requirement for fiscal agreements 39756
established by rules adopted under that section, is not complied 39757
with; 39758

(2) A county family services agency fails to develop, submit 39759
to the department, or comply with a corrective action plan under 39760
division (B) of section 5101.221 of the Revised Code, or the 39761
department disapproves the agency's corrective action plan 39762
developed under division (B) of section 5101.221 of the Revised 39763
Code; 39764

(3) A requirement for the family services duty established by 39765
the department or any of the following is not complied with: a 39766
federal or state law, state plan for receipt of federal financial 39767
participation, grant agreement between the department and a 39768
federal agency, or executive order issued by the governor; 39769

(4) The responsible entity is solely or partially 39770
responsible, as determined by the director of job and family 39771
services, for an adverse audit finding, adverse quality control 39772
finding, final disallowance of federal financial participation, or 39773
other sanction or penalty regarding the family services duty. 39774

(5) The responsible entity is solely or partially 39775
responsible, as determined by the director of job and family 39776
services, for failure to comply with a requirement established 39777
under Title IV-A of the "Social Security Act," 110 Stat. 2113 39778
(1996), 42 U.S.C. 601, as amended, that results in the state being 39779
required to increase its qualified state expenditures as defined 39780
in 42 U.S.C. 609(a)(7)(B)(i), to avoid a penalty under 42 U.S.C. 39781
609(a)(7). 39782

(C) The department may take one or more of the following 39783

actions against the responsible entity when authorized by division 39784
(B)(1), (2), (3), or (4) of this section: 39785

(1) Require the responsible entity to comply with a 39786
corrective action plan pursuant to a time schedule specified by 39787
the department. The corrective action plan shall be established or 39788
approved by the department and shall not require a county family 39789
services agency to commit resources to the plan. 39790

(2) Require the responsible entity to comply with a 39791
corrective action plan pursuant to a time schedule specified by 39792
the department. The corrective action plan shall be established or 39793
approved by the department and require a county family services 39794
agency to commit to the plan existing resources identified by the 39795
agency. 39796

(3) Require the responsible entity to do one of the 39797
following: 39798

(a) Share with the department a final disallowance of federal 39799
financial participation or other sanction or penalty; 39800

(b) Reimburse the department the final amount the department 39801
pays to the federal government or another entity that represents 39802
the amount the responsible entity is responsible for of an adverse 39803
audit finding, adverse quality control finding, final disallowance 39804
of federal financial participation, or other sanction or penalty 39805
issued by the federal government, auditor of state, or other 39806
entity; 39807

(c) Pay the federal government or another entity the final 39808
amount that represents the amount the responsible entity is 39809
responsible for of an adverse audit finding, adverse quality 39810
control finding, final disallowance of federal financial 39811
participation, or other sanction or penalty issued by the federal 39812
government, auditor of state, or other entity; 39813

(d) Pay the department the final amount that represents the amount the responsible entity is responsible for of an adverse audit finding or adverse quality control finding. 39814
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(4) Impose an administrative sanction issued by the department against the responsible entity. A sanction may be increased if the department has previously taken action against the responsible entity under this division. 39817
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(5) Perform, or contract with a government or private entity for the entity to perform, the family services duty until the department is satisfied that the responsible entity ensures that the duty will be performed satisfactorily. If the department performs or contracts with an entity to perform a family services duty under division (C)(5) of this section, the department may do either or both of the following: 39821
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(a) Spend funds in the county treasury appropriated by the board of county commissioners for the duty; 39828
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(b) Withhold funds allocated or reimbursements due to the responsible entity for the duty and spend the funds for the duty. 39830
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(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. 39832
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(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. 39838
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(8) If the department takes action under this division 39845
because of division (B)(5) of this section, increase the county's 39846
share of public assistance expenditures under section 5101.16 of 39847
the Revised Code to the extent the responsible entity is 39848
responsible for the state being required to increase its qualified 39849
state expenditures. 39850

(D) If the department proposes to take action against the 39851
responsible entity under division (C) of this section, the 39852
department shall notify the responsible entity and county auditor. 39853
The notice shall be in writing and specify the action the 39854
department proposes to take. The department shall send the notice 39855
by regular United States mail. 39856

Except as provided by division (E) of this section, the 39857
responsible entity may request an administrative review of a 39858
proposed action in accordance with administrative review 39859
procedures the department shall establish. The administrative 39860
review procedures shall comply with all of the following: 39861

(1) A request for an administrative review shall state 39862
specifically all of the following: 39863

(a) The proposed action specified in the notice from the 39864
department for which the review is requested; 39865

(b) The reason why the responsible entity believes the 39866
proposed action is inappropriate; 39867

(c) All facts and legal arguments that the responsible entity 39868
wants the department to consider; 39869

(d) The name of the person who will serve as the responsible 39870
entity's representative in the review. 39871

(2) If the department's notice specifies more than one 39872
proposed action and the responsible entity does not specify all of 39873
the proposed actions in its request pursuant to division (D)(1)(a) 39874

of this section, the proposed actions not specified in the request 39875
shall not be subject to administrative review and the parts of the 39876
notice regarding those proposed actions shall be final and binding 39877
on the responsible entity. 39878

(3) In the case of a proposed action under division (C)(1) of 39879
this section, the responsible entity shall have fifteen calendar 39880
days after the department mails the notice to the responsible 39881
entity to send a written request to the department for an 39882
administrative review. If it receives such a request within the 39883
required time, the department shall postpone taking action under 39884
division (C)(1) of this section for fifteen calendar days 39885
following the day it receives the request or extended period of 39886
time provided for in division (D)(5) of this section to allow a 39887
representative of the department and a representative of the 39888
responsible entity an informal opportunity to resolve any dispute 39889
during that fifteen-day or extended period. 39890

(4) In the case of a proposed action under division (C)(2), 39891
(3), (4), (5), ~~or (7)~~, or (8) of this section, the responsible 39892
entity shall have thirty calendar days after the department mails 39893
the notice to the responsible entity to send a written request to 39894
the department for an administrative review. If it receives such a 39895
request within the required time, the department shall postpone 39896
taking action under division (C)(2), (3), (4), (5), ~~or (7)~~, or (8) 39897
of this section for thirty calendar days following the day it 39898
receives the request or extended period of time provided for in 39899
division (D)(5) of this section to allow a representative of the 39900
department and a representative of the responsible entity an 39901
informal opportunity to resolve any dispute during that thirty-day 39902
or extended period. 39903

(5) If the informal opportunity provided in division (D)(3) 39904
or (4) of this section does not result in a written resolution to 39905
the dispute within the fifteen- or thirty-day period, the director 39906

of job and family services and representative of the responsible 39907
entity may enter into a written agreement extending the time 39908
period for attempting an informal resolution of the dispute under 39909
division (D)(3) or (4) of this section. 39910

(6) In the case of a proposed action under division (C)(3) of 39911
this section, the responsible entity may not include in its 39912
request disputes over a finding, final disallowance of federal 39913
financial participation, or other sanction or penalty issued by 39914
the federal government, auditor of state, or entity other than the 39915
department. 39916

(7) If the responsible entity fails to request an 39917
administrative review within the required time, the responsible 39918
entity loses the right to request an administrative review of the 39919
proposed actions specified in the notice and the notice becomes 39920
final and binding on the responsible entity. 39921

(8) If the informal opportunity provided in division (D)(3) 39922
or (4) of this section does not result in a written resolution to 39923
the dispute within the time provided by division (D)(3), (4), or 39924
(5) of this section, the director shall appoint an administrative 39925
review panel to conduct the administrative review. The review 39926
panel shall consist of department employees and one director or 39927
other representative of the type of county family services agency 39928
that is responsible for the kind of family services duty that is 39929
the subject of the dispute and serves a different county than the 39930
county served by the responsible entity. No individual involved in 39931
the department's proposal to take action against the responsible 39932
entity may serve on the review panel. The review panel shall 39933
review the responsible entity's request. The review panel may 39934
require that the department or responsible entity submit 39935
additional information and schedule and conduct an informal 39936
hearing to obtain testimony or additional evidence. A review of a 39937
proposal to take action under division (C)(3) of this section 39938

shall be limited solely to the issue of the amount the responsible
entity shall share with the department, reimburse the department,
or pay to the federal government, department, or other entity
under division (C)(3) of this section. The review panel is not
required to make a stenographic record of its hearing or other
proceedings.

(9) After finishing an administrative review, an
administrative review panel appointed under division (D)(8) of
this section shall submit a written report to the director setting
forth its findings of fact, conclusions of law, and
recommendations for action. The director may approve, modify, or
disapprove the recommendations. If the director modifies or
disapproves the recommendations, the director shall state the
reasons for the modification or disapproval and the actions to be
taken against the responsible entity.

(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.

(E) The responsible entity is not entitled to an
administrative review under division (D) of this section for any
of the following:

(1) An action taken under division (C)(6) of this section;

(2) An action taken under section 5101.242 of the Revised
Code;

(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;

(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;

(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.

(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.

(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.

Sec. 5101.241. (A) As used in this section:

(1) "Local area" and "chief elected official" have the same meaning as in section 5101.20 of the Revised Code.

(2) "Responsible entity" means the chief elected officials of a local area.

(B) The department of job and family services may take action under division (C) of this section against the responsible entity, regardless of who performs the workforce development activity, if the department determines any of the following are the case:

(1) A requirement of a grant agreement entered into under section 5101.20 of the Revised Code that includes the workforce development activity, including a requirement for grant agreements established by rules adopted under that section, is not complied with;

(2) A performance standard for the workforce development

activity established by the federal government or the department 39999
is not met; 40000

(3) A requirement for the workforce development activity 40001
established by the department or any of the following is not 40002
complied with: a federal or state law, state plan for receipt of 40003
federal financial participation, grant agreement between the 40004
department and a federal agency, or executive order; 40005

(4) The responsible entity is solely or partially 40006
responsible, as determined by the director of job and family 40007
services, for an adverse audit finding, adverse quality control 40008
finding, final disallowance of federal financial participation, or 40009
other sanction or penalty regarding the workforce development 40010
activity. 40011

(C) The department may take one or more of the following 40012
actions against the responsible entity when authorized by division 40013
(B)(1), (2), (3), or (4) of this section: 40014

(1) Require the responsible entity to submit to and comply 40015
with a corrective action plan, established or approved by the 40016
department, pursuant to a time schedule specified by the 40017
department; 40018

(2) Require the responsible entity to do one of the 40019
following: 40020

(a) Share with the department a final disallowance of federal 40021
financial participation or other sanction or penalty; 40022

(b) Reimburse the department the amount the department pays 40023
to the federal government or another entity that represents the 40024
amount the responsible entity is responsible for of an adverse 40025
audit finding, adverse quality control finding, final disallowance 40026
of federal financial participation, or other sanction or penalty 40027
issued by the federal government, auditor of state, or other 40028

entity; 40029

(c) Pay the federal government or another entity the amount 40030
that represents the amount the responsible entity is responsible 40031
for of an adverse audit finding, adverse quality control finding, 40032
final disallowance of federal financial participation, or other 40033
sanction or penalty issued by the federal government, auditor of 40034
state, or other entity; 40035

(d) Pay the department the amount that represents the amount 40036
the responsible entity is responsible for of an adverse audit 40037
finding, adverse quality control finding, or other sanction or 40038
penalty issued by the department. 40039

(3) Impose a financial or administrative sanction or adverse 40040
audit finding issued by the department against the responsible 40041
entity, which may be increased with each subsequent action taken 40042
against the responsible entity-*i* 40043

(4) Perform or contract with a government or private entity 40044
for the entity to perform the workforce development activity until 40045
the department is satisfied that the responsible entity ensures 40046
that the activity will be performed to the department's 40047
satisfaction. If the department performs or contracts with an 40048
entity to perform the workforce development activity under 40049
division (C)(4) of this section, the department may withhold funds 40050
allocated to or reimbursements due to the responsible entity for 40051
the activity and use those funds to implement division (C)(4) of 40052
this section. 40053

(5) Request the attorney general to bring mandamus 40054
proceedings to compel the responsible entity to take or cease the 40055
actions listed in division (B) of this section. The attorney 40056
general shall bring any mandamus proceedings in the Franklin 40057
county court of appeals at the department's request. 40058

(6) If the department takes action under this division 40059

because of division (B)(3) of this section, withhold funds 40060
allocated or reimbursement due to the responsible entity until the 40061
department determines that the responsible entity is in compliance 40062
with the requirement. The department shall release the funds when 40063
the department determines that compliance has been achieved. 40064

(7) Issue a notice of intent to revoke approval of all or 40065
part of the local plan effected that conflicts with state or 40066
federal law and effectuate the revocation. 40067

(D) The department shall notify the responsible entity and 40068
the appropriate county auditor when the department proposes to 40069
take action under division (C) of this section. The notice shall 40070
be in writing and specify the action the department proposes to 40071
take. The department shall send the notice by regular United 40072
States mail. Except as provided in division (E) of this section, 40073
the responsible entity may request an administrative review of a 40074
proposed action in accordance with administrative review 40075
procedures the department shall establish. The administrative 40076
review procedures shall comply with all of the following: 40077

(1) A request for an administrative review shall state 40078
specifically all of the following: 40079

(a) The proposed action specified in the notice from the 40080
department for which the review is requested; 40081

(b) The reason why the responsible entity believes the 40082
proposed action is inappropriate; 40083

(c) All facts and legal arguments that the responsible entity 40084
wants the department to consider; 40085

(d) The name of the person who will serve as the responsible 40086
entity's representative in the review. 40087

(2) If the department's notice specifies more than one 40088
proposed action and the responsible entity does not specify all of 40089

the proposed actions in its request pursuant to division (D)(1)(a) 40090
of this section, the proposed actions not specified in the request 40091
shall not be subject to administrative review and the parts of the 40092
notice regarding those proposed actions shall be final and binding 40093
on the responsible entity. 40094

~~(3) In the case of a proposed action under division (C)(1) of~~ 40095
~~this section, the~~ The responsible entity shall have fifteen 40096
calendar days after the department mails the notice to the 40097
responsible entity to send a written request to the department for 40098
an administrative review. ~~If it receives such a request within the~~ 40099
~~required time, the department shall postpone taking action under~~ 40100
~~division (C)(1) of this section for fifteen calendar days~~ 40101
~~following the day it receives the request to allow a~~ 40102
~~representative of the department and a representative of the~~ 40103
~~responsible entity an informal opportunity to resolve any dispute~~ 40104
~~during that fifteen day period. The responsible entity and the~~ 40105
department shall attempt to resolve informally any dispute and may 40106
develop a written resolution to the dispute at any time prior to 40107
submitting the written report described in division (D)(7) of this 40108
section to the director. 40109

~~(4) In the case of a proposed action under division (C)(2),~~ 40110
~~(3), or (4) of this section, the responsible entity shall have~~ 40111
~~thirty calendar days after the department mails the notice to the~~ 40112
~~responsible entity to send a written request to the department for~~ 40113
~~an administrative review. If it receives such a request within the~~ 40114
~~required time, the department shall postpone taking action under~~ 40115
~~division (C)(2), (3), or (4) of this section for thirty calendar~~ 40116
~~days following the day it receives the request to allow a~~ 40117
~~representative of the department and a representative of the~~ 40118
~~responsible entity an informal opportunity to resolve any dispute~~ 40119
~~during that thirty day period.~~ 40120

~~(5)~~ In the case of a proposed action under division (C)(2) of 40121

this section, the responsible entity may not include in its 40122
request disputes over a finding, final disallowance of federal 40123
financial participation, or other sanction or penalty issued by 40124
the federal government, auditor of state, or other entity other 40125
than the department. 40126

~~(6)~~(5) If the responsible entity fails to request an 40127
administrative review within the required time, the responsible 40128
entity loses the right to request an administrative review of the 40129
proposed actions specified in the notice and the notice becomes 40130
final and binding on the responsible entity. 40131

~~(7) If the informal opportunity provided in division (D)(3)~~ 40132
~~or (4) of this section does not result in a written resolution to~~ 40133
~~the dispute, the~~ (6) The director of job and family services shall 40134
appoint an administrative review panel to conduct the 40135
administrative review. The review panel shall consist of 40136
department employees who are not involved in the department's 40137
proposal to take action against the responsible entity. The review 40138
panel shall review the responsible entity's request. The review 40139
panel may require that the department or responsible entity submit 40140
additional information and schedule and conduct an informal 40141
hearing to obtain testimony or additional evidence. A review of a 40142
proposal to take action under division (C)(2) of this section 40143
shall be limited solely to the issue of the amount the responsible 40144
entity shall share with the department, reimburse the department, 40145
or pay to the federal government, department, or other entity 40146
under division (C)(2) of this section. The review panel is not 40147
required to make a stenographic record of its hearing or other 40148
proceedings. 40149

~~(8)~~(7) After finishing an administrative review, an 40150
administrative review panel appointed under division (D)~~(7)~~(6) of 40151
this section shall submit a written report to the director setting 40152
forth its findings of fact, conclusions of law, and 40153

recommendations for action. The director may approve, modify, or 40154
disapprove the recommendations. ~~If the director modifies or 40155~~
~~disapproves the recommendations, the director shall state the 40156~~
~~reasons for the modification or disapproval and the actions to be 40157~~
~~taken against the responsible entity. 40158~~

~~(9)~~(8) The director's approval, modification, or disapproval 40159
under division (D)~~(8)~~(7) of this section shall be final and 40160
binding on the responsible entity and shall not be subject to 40161
further ~~departmental~~ review. 40162

(E) The responsible entity is not entitled to an 40163
administrative review under division (D) of this section for any 40164
of the following: 40165

(1) An action taken under division (C)(5) or (6) of this 40166
section; 40167

(2) An action taken under section 5101.242 of the Revised 40168
Code; 40169

(3) An action taken under division (C)(2) of this section if 40170
the federal government, auditor of state, or entity other than the 40171
department has identified the responsible entity as being solely 40172
or partially responsible for an adverse audit finding, adverse 40173
quality control finding, final disallowance of federal financial 40174
participation, or other sanction or penalty; 40175

(4) An adjustment to an allocation, cash draw, advance, or 40176
reimbursement to the responsible entity's local area that the 40177
department determines necessary for budgetary reasons; 40178

(5) Withholding of a cash draw or reimbursement due to 40179
noncompliance with a reporting requirement established in rules 40180
adopted under section 5101.243 of the Revised Code. 40181

(F) This section does not apply to other actions the 40182
department takes against the responsible entity pursuant to 40183

authority granted by another state law unless the other state law
requires the department to take the action in accordance with this
section. 40184
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(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. 40187
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(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: 40190
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(1) Fraud or abuse; 40194

(2) Failure to carry out the requirements of the federal
"Workforce Investment Act," 112 Stat. 936, 29 U.S.C. 2801, as
amended, including failure to meet performance standards
established by the federal government for two consecutive years. 40195
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If the governor finds that access to basic "Workforce
Investment Act" services is not being provided in a local area,
the governor may declare an emergency and, in consultation with
the chief elected officials of the local area affected, arrange
for provision of these services through an alternative entity
during the time period in which resolution of the problem
preventing service delivery in the local area is pending. An
action taken by the governor pursuant to this section is not
subject to appeal under this section. 40199
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Sec. 5101.26. As used in this section and in sections 5101.27
to 5101.30 of the Revised Code: 40208
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(A) "County agency" means a county department of job and
family services or a public children services agency. 40210
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(B) "Fugitive felon" means an individual who is fleeing to
avoid prosecution, or custody or confinement after conviction, 40212
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under the laws of the place from which the individual is fleeing, 40214
for a crime or an attempt to commit a crime that is a felony under 40215
the laws of the place from which the individual is fleeing or, in 40216
the case of New Jersey, a high misdemeanor, regardless of whether 40217
the individual has departed from the individual's usual place of 40218
residence. 40219

(C) "Information" means records as defined in section 149.011 40220
of the Revised Code, any other documents in any format, and data 40221
derived from records and documents that are generated, acquired, 40222
or maintained by the department of job and family services, a 40223
county agency, or an entity performing duties on behalf of the 40224
department or a county agency. 40225

(D) "Law enforcement agency" means the state highway patrol, 40226
an agency that employs peace officers as defined in section 109.71 40227
of the Revised Code, the adult parole authority, a county 40228
department of probation, a prosecuting attorney, the attorney 40229
general, similar agencies of other states, federal law enforcement 40230
agencies, and postal inspectors. "Law enforcement agency" includes 40231
the peace officers and other law enforcement officers employed by 40232
the agency. 40233

(E) "Medical assistance provided under a public assistance 40234
program" means medical assistance provided under the programs 40235
established under sections 5101.49, 5101.50 to 5101.503, and 40236
5101.51 to 5101.5110, ~~Chapters~~ Chapter 5111. ~~and 5115.~~, or any 40237
other provision of the Revised Code. 40238

(F) "Public assistance" means financial assistance, medical 40239
assistance, or social services provided under a program 40240
administered by the department of job and family services or a 40241
county agency pursuant to Chapter 329., 5101., 5104., 5107., 40242
5108., 5111., or 5115. of the Revised Code or an executive order 40243
issued under section 107.17 of the Revised Code. 40244

(G) "Public assistance recipient" means an applicant for or 40245
recipient or former recipient of public assistance. 40246

Sec. 5101.31. Any record, data, pricing information, or other 40247
information regarding a drug rebate agreement or a supplemental 40248
drug rebate agreement for the medicaid program established under 40249
Chapter 5111. of the Revised Code ~~or the disability medical~~ 40250
~~assistance program established under section 5115.10 of the~~ 40251
~~Revised Code~~ that the department of job and family services 40252
receives from a pharmaceutical manufacturer or creates pursuant to 40253
negotiation of the agreement is not a public record under section 40254
149.43 of the Revised Code and shall be treated by the department 40255
as confidential information. 40256

Sec. 5101.35. (A) As used in this section: 40257

(1) "Agency" means the following entities that administer a 40258
family services program: 40259

(a) The department of job and family services; 40260

(b) A county department of job and family services; 40261

(c) A public children services agency; 40262

(d) A private or government entity administering, in whole or 40263
in part, a family services program for or on behalf of the 40264
department of job and family services or a county department of 40265
job and family services or public children services agency. 40266

(2) "Appellant" means an applicant, participant, former 40267
participant, recipient, or former recipient of a family services 40268
program who is entitled by federal or state law to a hearing 40269
regarding a decision or order of the agency that administers the 40270
program. 40271

(3) "Family services program" means assistance provided under 40272
a Title IV-A program as defined in section 5101.80 of the Revised 40273

Code or under Chapter 5104., 5111., or 5115. or section 173.35, 40274
5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the 40275
Revised Code, other than assistance provided under section 5101.46 40276
of the Revised Code by the department of mental health, the 40277
department of mental retardation and developmental disabilities, a 40278
board of alcohol, drug addiction, and mental health services, or a 40279
county board of mental retardation and developmental disabilities. 40280

(B) Except as provided by division (G) of this section, an 40281
appellant who appeals under federal or state law a decision or 40282
order of an agency administering a family services program shall, 40283
at the appellant's request, be granted a state hearing by the 40284
department of job and family services. This state hearing shall be 40285
conducted in accordance with rules adopted under this section. The 40286
state hearing shall be tape-recorded, but neither the recording 40287
nor a transcript of the recording shall be part of the official 40288
record of the proceeding. A state hearing decision is binding upon 40289
the agency and department, unless it is reversed or modified on 40290
appeal to the director of job and family services or a court of 40291
common pleas. 40292

(C) Except as provided by division (G) of this section, an 40293
appellant who disagrees with a state hearing decision may make an 40294
administrative appeal to the director of job and family services 40295
in accordance with rules adopted under this section. This 40296
administrative appeal does not require a hearing, but the director 40297
or the director's designee shall review the state hearing decision 40298
and previous administrative action and may affirm, modify, remand, 40299
or reverse the state hearing decision. Any person designated to 40300
make an administrative appeal decision on behalf of the director 40301
shall have been admitted to the practice of law in this state. An 40302
administrative appeal decision is the final decision of the 40303
department and is binding upon the department and agency, unless 40304
it is reversed or modified on appeal to the court of common pleas. 40305

(D) An agency shall comply with a decision issued pursuant to 40306
division (B) or (C) of this section within the time limits 40307
established by rules adopted under this section. If a county 40308
department of job and family services or a public children 40309
services agency fails to comply within these time limits, the 40310
department may take action pursuant to section 5101.24 of the 40311
Revised Code. If another agency fails to comply within the time 40312
limits, the department may force compliance by withholding funds 40313
due the agency or imposing another sanction established by rules 40314
adopted under this section. 40315

(E) An appellant who disagrees with an administrative appeal 40316
decision of the director of job and family services or the 40317
director's designee issued under division (C) of this section may 40318
appeal from the decision to the court of common pleas pursuant to 40319
section 119.12 of the Revised Code. The appeal shall be governed 40320
by section 119.12 of the Revised Code except that: 40321

(1) The person may appeal to the court of common pleas of the 40322
county in which the person resides, or to the court of common 40323
pleas of Franklin county if the person does not reside in this 40324
state. 40325

(2) The person may apply to the court for designation as an 40326
indigent and, if the court grants this application, the appellant 40327
shall not be required to furnish the costs of the appeal. 40328

(3) The appellant shall mail the notice of appeal to the 40329
department of job and family services and file notice of appeal 40330
with the court within thirty days after the department mails the 40331
administrative appeal decision to the appellant. For good cause 40332
shown, the court may extend the time for mailing and filing notice 40333
of appeal, but such time shall not exceed six months from the date 40334
the department mails the administrative appeal decision. Filing 40335
notice of appeal with the court shall be the only act necessary to 40336

vest jurisdiction in the court.

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(4) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court 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.

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(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:

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(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.

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(2) Administrative appeals under division (C) of this section;

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(3) Time limits for complying with a decision issued under division (B) or (C) of this section;

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(4) Sanctions that may be applied against an agency under division (D) of this section.

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(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)(c) ~~or~~ (d), or (e) of section 5101.80 of the Revised Code that is different from the appeals process established by this

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section. The different appeals process may include having a state 40367
agency that administers the Title IV-A program pursuant to an 40368
interagency agreement entered into under section 5101.801 of the 40369
Revised Code administer the appeals process. 40370

(H) The requirements of Chapter 119. of the Revised Code 40371
apply to a state hearing or administrative appeal under this 40372
section only to the extent, if any, specifically provided by rules 40373
adopted under this section. 40374

Sec. 5101.36. Any application for public assistance gives a 40375
right of subrogation to the department of job and family services 40376
for any workers' compensation benefits payable to a person who is 40377
subject to a support order, as defined in section 3119.01 of the 40378
Revised Code, on behalf of the applicant, to the extent of any 40379
public assistance payments made on the applicant's behalf. If the 40380
director of job and family services, in consultation with a child 40381
support enforcement agency and the administrator of the bureau of 40382
workers' compensation, determines that a person responsible for 40383
support payments to a recipient of public assistance is receiving 40384
workers' compensation, the director shall notify the administrator 40385
of the amount of the benefit to be paid to the department of job 40386
and family services. 40387

For purposes of this section, "public assistance" means 40388
medical assistance provided through the medical assistance program 40389
established under section 5111.01 of the Revised Code; Ohio works 40390
first provided under Chapter 5107. of the Revised Code; 40391
prevention, retention, and contingency benefits and services 40392
provided under Chapter 5108. of the Revised Code; disability 40393
financial assistance provided under Chapter 5115. of the Revised 40394
Code; or disability medical assistance provided under former 40395
Chapter 5115. of the Revised Code. 40396

Sec. 5101.46. (A) As used in this section:	40397
(1) "Title XX" means Title XX of the "Social Security Act,"	40398
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended.	40399
(2) "Respective local agency" means, with respect to the	40400
department of job and family services, a county department of job	40401
and family services; with respect to the department of mental	40402
health, a board of alcohol, drug addiction, and mental health	40403
services; and with respect to the department of mental retardation	40404
and developmental disabilities, a county board of mental	40405
retardation and developmental disabilities.	40406
(3) "Federal poverty guidelines" means the poverty guidelines	40407
as revised annually by the United States department of health and	40408
human services in accordance with section 673(2) of the "Omnibus	40409
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A.	40410
9902, as amended, for a family size equal to the size of the	40411
family of the person whose income is being determined.	40412
(B) The departments of job and family services, mental	40413
health, and mental retardation and developmental disabilities,	40414
with their respective local agencies, shall administer the	40415
provision of social services funded through grants made under	40416
Title XX. The social services furnished with Title XX funds shall	40417
be directed at the following goals:	40418
(1) Achieving or maintaining economic self-support to	40419
prevent, reduce, or eliminate dependency;	40420
(2) Achieving or maintaining self-sufficiency, including	40421
reduction or prevention of dependency;	40422
(3) Preventing or remedying neglect, abuse, or exploitation	40423
of children and adults unable to protect their own interests, or	40424
preserving, rehabilitating, or reuniting families;	40425
(4) Preventing or reducing inappropriate institutional care	40426

by providing for community-based care, home-based care, or other forms of less intensive care; 40427
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(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions. 40429
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(C)(1) All federal funds received under Title XX shall be appropriated as follows: 40432
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(a) Seventy-two and one-half per cent to the department of job and family services; 40434
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(b) Twelve and ninety-three one-hundredths per cent to the department of mental health; 40436
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(c) Fourteen and fifty-seven one-hundredths per cent to the department of mental retardation and developmental disabilities. 40438
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(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. 40440
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(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. 40448
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(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: 40453
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(a) Employees of county departments of job and family 40456

services; 40457

(b) Providers of services under contract with the state 40458
departments' respective local agencies; 40459

(c) Employees of a public children services agency directly 40460
engaged in providing Title XX services. 40461

(D) The department of job and family services shall prepare a 40462
biennial comprehensive Title XX social services plan on the 40463
intended use of Title XX funds. The department shall develop a 40464
method for obtaining public comment during the development of the 40465
plan and following its completion. 40466

For each state fiscal year, the department of job and family 40467
services shall prepare a report on the actual use of Title XX 40468
funds. The department shall make the annual report available for 40469
public inspection. 40470

The departments of mental health and mental retardation and 40471
developmental disabilities shall prepare and submit to the 40472
department of job and family services the portions of each 40473
biennial plan and annual report that apply to services for mental 40474
health and mental retardation and developmental disabilities. Each 40475
respective local agency of the three state departments shall 40476
submit information as necessary for the preparation of biennial 40477
plans and annual reports. 40478

(E) Each county department shall adopt a county profile for 40479
the administration and provision of Title XX social services in 40480
the county. In developing its county profile, the county 40481
department shall take into consideration the comments and 40482
recommendations received from the public by the county family 40483
services planning committee pursuant to section 329.06 of the 40484
Revised Code. As part of its preparation of the county profile, 40485
the county department may prepare a local needs report analyzing 40486
the need for Title XX social services. 40487

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

~~(F) Not less often than every two years, the departments of job and family services, mental health, and mental retardation and developmental disabilities each shall commission an entity independent of itself to conduct an audit of its Title XX expenditures in accordance with generally accepted auditing principles. Within thirty days following the completion of its audit, each department shall submit a copy of the audit to the general assembly and to the United States secretary of health and human services.~~

~~(G)~~ Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or local agency for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a provider of social services provider if there are adverse findings

in an audit that are the responsibility of the provider. The 40520
~~amount of any adverse findings shall not be reimbursed with Title~~ 40521
~~XX funds. The cost of conducting an audit shall be reimbursed~~ 40522
~~under a subsequent or amended Title XX contract with the provider.~~ 40523

~~(H) If federal funds received by the department of job and~~ 40524
~~family services for use under Chapters 5107. and 5108. of the~~ 40525
~~Revised Code are transferred by the controlling board for use in~~ 40526
~~providing social services under this section, the distribution and~~ 40527
~~use of the funds are not subject to the provisions of division (C)~~ 40528
~~of this section. The department may do one or both of the~~ 40529
~~following with the funds:~~ 40530

~~(1) Distribute the funds to the county departments of job and~~ 40531
~~family services;~~ 40532

~~(2) Use the funds for services that benefit individuals~~ 40533
~~eligible for services consistent with the principles of Title IV A~~ 40534
~~of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A.~~ 40535
~~301, as amended.~~ 40536

~~(I) Except for the authority to adopt rules under division~~ 40537
~~(J) of this section as necessary to carry out this division, this~~ 40538
~~section does not apply to any distribution by the department of~~ 40539
~~job and family services of funds for reimbursement of allowable~~ 40540
~~Title XX expenditures when the funds for the reimbursement are~~ 40541
~~received from a federal funding source other than Title XX.~~ 40542

~~(J)(G) The department of job and family services may adopt~~ 40543
~~rules necessary to implement and carry out the purposes of this~~ 40544
~~section. Rules adopted under this division shall be adopted in~~ 40545
~~accordance with Chapter 119. of the Revised Code, unless they are~~ 40546
~~internal management rules governing fiscal and administrative~~ 40547
~~matters. Internal governing financial and operational matters of~~ 40548
~~the department or matters between the department and county~~ 40549
~~departments of job and family services shall be adopted as~~ 40550

internal management rules may be adopted in accordance with 40551
section 111.15 of the Revised Code. Rules governing eligibility 40552
for services, program participation, and other matters pertaining 40553
to applicants and participants shall be adopted in accordance with 40554
Chapter 119. of the Revised Code. 40555

Sec. 5101.461. (A) As used in this section: 40556

(1) "Title IV-A" means Title IV-A of the "Social Security 40557
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 40558

(2) "Title XX" has the same meaning as in section 5101.46 of 40559
the Revised Code. 40560

(B) To the extent authorized by federal law, the department 40561
of job and family services may use funds received through the 40562
Title IV-A temporary assistance for needy families block grant for 40563
purposes of providing Title XX social services. The amount used 40564
under this section shall not exceed the maximum amount permitted 40565
by federal law. The funds and provision of Title XX social 40566
services with the funds are not subject to section 5101.46 of the 40567
Revised Code. 40568

(C) The department and any county department of job and 40569
family services may require an entity under contract to provide 40570
Title XX social services with funds used under this section to 40571
submit to an audit on the basis of alleged misuse or improper 40572
accounting of funds. If an audit is required, the social services 40573
provider shall reimburse the state department or county department 40574
for the cost it incurred in conducting the audit or having the 40575
audit conducted. 40576

If an audit demonstrates that a social services provider is 40577
responsible for one or more adverse findings, the provider shall 40578
reimburse the state department or county department the amount of 40579
the adverse findings. The amount shall not be reimbursed with 40580

funds received under this section. The state department and county departments may terminate or refuse to enter into a contract with a social services provider to provide services with funds available pursuant to this section if there are adverse findings in an audit that are the responsibility of the provider. 40581
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(D) The state department of job and family services may adopt rules to implement and carry out the purposes of this section. Rules 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 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. 40586
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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: 40596
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(1) The medicaid program established by Chapter 5111. of the Revised Code; 40601
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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; 40603
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(3) Publicly funded child care provided under Chapter 5104. of the Revised Code; 40606
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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; 40608
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(5) Other programs the director determines are supportive of children, adults, or families with at least one employed member; 40611
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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. 40613
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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. 40618
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(C) Subject to division (B) of this section, if the director elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section, both of the following apply: 40623
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(1) An individual seeking services under the program may apply for the program to the director or to the entity that state law governing the program authorizes to accept applications for the program. 40628
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(2) The director is subject to federal statutes and regulations and state ~~law~~ statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the program. 40632
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~~(C)~~(D) The director may adopt rules as necessary to implement this section. 40637
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Sec. 5101.80. (A) As used in this section and in section 5101.801 of the Revised Code: 40639
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(1) "County family services agency" has the same meaning as 40641
in section 307.981 of the Revised Code. 40642

(2) "State agency" has the same meaning as in section 9.82 of 40643
the Revised Code. 40644

(3) "Title IV-A program" means all of the following that are 40645
funded in part with funds provided under the temporary assistance 40646
for needy families block grant established by Title IV-A of the 40647
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as 40648
amended: 40649

(a) The Ohio works first program established under Chapter 40650
5107. of the Revised Code; 40651

(b) The prevention, retention, and contingency program 40652
established under Chapter 5108. of the Revised Code; 40653

(c) A program established by the general assembly or an 40654
executive order issued by the governor that is administered or 40655
supervised by the department of job and family services pursuant 40656
to section 5101.801 of the Revised Code; 40657

(d) The kinship caregiver subsidy program created under 40658
section 5101.802 of the Revised Code; 40659

(e) A component of a Title IV-A program identified under 40660
divisions (A)(3)(a) to ~~(e)~~(d) of this section that the Title IV-A 40661
state plan prepared under division (C)(1) of this section 40662
identifies as a component. 40663

(B) The department of job and family services shall act as 40664
the single state agency to administer and supervise the 40665
administration of Title IV-A programs. The Title IV-A state plan 40666
and amendments to the plan prepared under division (C) of this 40667
section are binding on county family services agencies and state 40668
agencies that administer a Title IV-A program. No county family 40669
services agency or state agency administering a Title IV-A program 40670

may establish, by rule or otherwise, a policy governing the Title 40671
IV-A program that is inconsistent with a Title IV-A program policy 40672
established, in rule or otherwise, by the director of job and 40673
family services. 40674

(C) The department of job and family services shall do all of 40675
the following: 40676

(1) Prepare and submit to the United States secretary of 40677
health and human services a Title IV-A state plan for Title IV-A 40678
programs; 40679

(2) Prepare and submit to the United States secretary of 40680
health and human services amendments to the Title IV-A state plan 40681
that the department determines necessary, including amendments 40682
necessary to implement Title IV-A programs identified in division 40683
(A)(3)(c) ~~and~~, (d), and (e) of this section; 40684

(3) Prescribe forms for applications, certificates, reports, 40685
records, and accounts of county family services agencies and state 40686
agencies administering a Title IV-A program, and other matters 40687
related to Title IV-A programs; 40688

(4) Make such reports, in such form and containing such 40689
information as the department may find necessary to assure the 40690
correctness and verification of such reports, regarding Title IV-A 40691
programs; 40692

(5) Require reports and information from each county family 40693
services agency and state agency administering a Title IV-A 40694
program as may be necessary or advisable regarding the Title IV-A 40695
program; 40696

(6) Afford a fair hearing in accordance with section 5101.35 40697
of the Revised Code to any applicant for, or participant or former 40698
participant of, a Title IV-A program aggrieved by a decision 40699
regarding the program; 40700

- (7) Administer and expend, pursuant to Chapters 5104., 5107., 40701
and 5108. of the Revised Code and ~~section~~ sections 5101.801 and 40702
5101.802 of the Revised Code, any sums appropriated by the general 40703
assembly for the purpose of those chapters and ~~section~~ sections 40704
and all sums paid to the state by the secretary of the treasury of 40705
the United States as authorized by Title IV-A of the "Social 40706
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended; 40707
- (8) Conduct investigations and audits as are necessary 40708
regarding Title IV-A programs; 40709
- (9) Enter into reciprocal agreements with other states 40710
relative to the provision of Ohio works first and prevention, 40711
retention, and contingency to residents and nonresidents; 40712
- (10) Contract with a private entity to conduct an independent 40713
on-going evaluation of the Ohio works first program and the 40714
prevention, retention, and contingency program. The contract must 40715
require the private entity to do all of the following: 40716
- (a) Examine issues of process, practice, impact, and 40717
outcomes; 40718
- (b) Study former participants of Ohio works first who have 40719
not participated in Ohio works first for at least one year to 40720
determine whether they are employed, the type of employment in 40721
which they are engaged, the amount of compensation they are 40722
receiving, whether their employer provides health insurance, 40723
whether and how often they have received benefits or services 40724
under the prevention, retention, and contingency program, and 40725
whether they are successfully self sufficient; 40726
- (c) Provide the department with reports at times the 40727
department specifies. 40728
- (11) Not later than January 1, 2001, and the first day of 40729
each January and July thereafter, prepare a report containing 40730

information on the following: 40731

(a) Individuals exhausting the time limits for participation 40732
in Ohio works first set forth in section 5107.18 of the Revised 40733
Code. 40734

(b) Individuals who have been exempted from the time limits 40735
set forth in section 5107.18 of the Revised Code and the reasons 40736
for the exemption. 40737

(12) Not later than January 1, 2001, and on a quarterly basis 40738
thereafter until December 1, 2003, prepare, to the extent the 40739
necessary data is available to the department, a report based on 40740
information determined under section 5107.80 of the Revised Code 40741
that states how many former Ohio works first participants entered 40742
the workforce during the most recent previous quarter for which 40743
the information is known and includes information regarding the 40744
earnings of those former participants. The report shall include a 40745
county-by-county breakdown and shall not contain the names or 40746
social security numbers of former participants. 40747

(13) To the extent authorized by section 5101.801 of the 40748
Revised Code, enter into interagency agreements with state 40749
agencies for the administration of Title IV-A programs identified 40750
under division (A)(3)(c) and ~~(d)~~(e) of this section. 40751

(D) The department shall provide copies of the reports it 40752
receives under division (C)(10) of this section and prepares under 40753
divisions (C)(11) and (12) of this section to the governor, the 40754
president and minority leader of the senate, and the speaker and 40755
minority leader of the house of representatives. The department 40756
shall provide copies of the reports to any private or government 40757
entity on request. 40758

(E) An authorized representative of the department or a 40759
county family services agency or state agency administering a 40760
Title IV-A program shall have access to all records and 40761

information bearing thereon for the purposes of investigations 40762
conducted pursuant to this section. 40763

Sec. 5101.801. (A) Except as otherwise provided by the law 40764
enacted by the general assembly or executive order issued by the 40765
governor establishing the Title IV-A program, a Title IV-A program 40766
identified under division (A)(3)(c) or ~~(d)~~(e) of section 5101.80 40767
of the Revised Code shall provide benefits and services that are 40768
not "assistance" as defined in 45 C.F.R. 260.31(a) and are 40769
benefits and services that 45 C.F.R. 260.31(b) excludes from the 40770
definition of assistance. 40771

(B) Except as otherwise provided by the law enacted by the 40772
general assembly or executive order issued by the governor 40773
establishing the Title IV-A program, the department of job and 40774
family services shall do either of the following regarding a Title 40775
IV-A program identified under division (A)(3)(c) or ~~(d)~~(e) of 40776
section 5101.80 of the Revised Code: 40777

(1) Administer the program or supervise a county family 40778
services agency's administration of the program; 40779

(2) Enter into an interagency agreement with a state agency 40780
for the state agency to administer the program under the 40781
department's supervision. 40782

(C) If the department administers or supervises the 40783
administration of a Title IV-A program identified under division 40784
(A)(3)(c) or ~~(d)~~(e) of section 5101.80 of the Revised Code 40785
pursuant to division (B)(1) of this section, the department may 40786
adopt rules governing the program. Rules governing financial and 40787
operational matters of the department or between the department 40788
and the county family services agency shall be adopted as internal 40789
management rules adopted in accordance with section 111.15 of the 40790
Revised Code. All other rules shall be adopted in accordance with 40791

Chapter 119. of the Revised Code.	40792
(D) If the department enters into an interagency agreement regarding a Title IV-A program identified under division (A)(3)(c) or (d) (e) of section 5101.80 of the Revised Code pursuant to division (B)(2) of this section, the agreement shall include at least all of the following:	40793 40794 40795 40796 40797
(1) A requirement that the state agency comply with the requirements for the program, including all of the following requirements established by federal statutes and regulations, state statutes and rules, the United States office of management and budget, and the Title IV-A state plan prepared under section 5101.80 of the Revised Code:	40798 40799 40800 40801 40802 40803
(a) Eligibility;	40804
(b) Reports;	40805
(c) Benefits and services;	40806
(d) Use of funds;	40807
(e) Appeals for applicants for, and recipients and former recipients of, the benefits and services;	40808 40809
(f) Audits.	40810
(2) A complete description of all of the following:	40811
(a) The benefits and services that the program is to provide;	40812
(b) The methods of program administration;	40813
(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;	40814 40815 40816
(d) Other program and administrative requirements that the department requires be included.	40817 40818
(3) Procedures for the department to approve a policy, established by rule or otherwise, that the state agency	40819 40820

establishes for the program before the policy is established; 40821

(4) Provisions regarding how the department is to reimburse 40822
the state agency for allowable expenditures under the program that 40823
the department approves, including all of the following: 40824

(a) Limitations on administrative costs; 40825

(b) The department, at its discretion, withholding no more 40826
than five per cent of the funds that the department would 40827
otherwise provide to the state agency for the program or charging 40828
the state agency for the costs to the department of performing, or 40829
contracting for the performance of, audits and other 40830
administrative functions associated with the program. 40831

(5) If the state agency arranges by contract, grant, or other 40832
agreement for another entity to perform a function the state 40833
agency would otherwise perform regarding the program, the state 40834
agency's responsibilities for both of the following: 40835

(a) Ensuring that the entity complies with the interagency 40836
agreement between the state agency and department and federal 40837
statutes and regulations and state statutes and rules governing 40838
the use of funds for the program; 40839

(b) Auditing the entity in accordance with requirements 40840
established by the United States office of management and budget. 40841

(6) The state agency's responsibilities regarding the prompt 40842
payment, including any interest assessed, of any adverse audit 40843
finding, final disallowance of federal funds, or other sanction or 40844
penalty imposed by the federal government, auditor of state, 40845
department, a court, or other entity regarding funds for the 40846
program; 40847

(7) Provisions for the department to terminate the 40848
interagency agreement or withhold reimbursement from the state 40849
agency if either of the following occur: 40850

(a) The federal government disapproves the program or reduces federal funds for the program; 40851
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(b) The state agency fails to comply with the terms of the interagency agreement. 40853
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(E) To the extent consistent with the law enacted by the general assembly or executive order issued by the governor establishing the Title IV-A program and subject to the approval of the director of budget and management, the director of job and family services may terminate a Title IV-A program identified under division (A)(3)(c) or ~~(d)~~(e) of section 5101.80 of the Revised Code or reduce funding for the program if the director of job and family services determines that federal or state funds are insufficient to fund the program. If the director of budget and management approves the termination or reduction in funding for such a program, the director of job and family services shall issue instructions for the termination or funding reduction. If a county family services agency or state agency is administering the program, the county family services agency or state agency is bound by the termination or funding reduction and shall comply with the director's instructions. 40855
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(F) The director of job and family services may adopt internal management rules in accordance with section 111.15 of the Revised Code as necessary to implement this section. The rules are binding on each county family services agency and state agency administering, pursuant to this section, a Title IV-A program identified in division (A)(3)(c) or ~~(d)~~(e) of section 5101.80 of the Revised Code. 40871
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Sec. 5101.802. (A) As used in this section: 40878

(1) "Kinship caregiver" has the same meaning as in section 5101.85 of the Revised Code. 40879
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(2) "Minor child" has the same meaning as in section 5107.02 40881
of the Revised Code. 40882

(B) There is hereby created the kinship caregiver subsidy 40883
program under which a monthly subsidy of two hundred fifty dollars 40884
shall be provided, to the extent funds are available for the 40885
program, to a kinship caregiver on behalf of each eligible minor 40886
child who the kinship caregiver cares for in place of the child's 40887
parents. A kinship caregiver may receive the monthly subsidy on 40888
behalf of a minor child if all of the following requirements are 40889
met: 40890

(1) The kinship caregiver applies to a public children 40891
services agency in accordance with the application process 40892
established in rules adopted under division (D) of this section; 40893

(2) The minor child for whom the kinship caregiver is to 40894
receive the subsidy payment is a child with special needs as that 40895
term is defined in rules adopted under section 5153.163 of the 40896
Revised Code and related to the kinship caregiver in a manner that 40897
makes the kinship caregiver a kinship caregiver; 40898

(3) A juvenile court has adjudicated that the minor child is 40899
an abused, neglected, or dependent child and determined that it is 40900
not in the child's best interest to be returned to the child's 40901
parents; 40902

(4) The kinship caregiver is either the minor child's legal 40903
custodian or legal guardian; 40904

(5) The minor child has resided with the kinship caregiver 40905
for at least six months pursuant to a placement approval process 40906
established in rules adopted under division (D) of this section 40907
and continues to reside with the kinship caregiver; 40908

(6) The gross income of the kinship caregiver's family does 40909
not exceed one hundred twenty per cent of the median income of a 40910

family of the same size, including the minor child, as most 40911
recently determined for this state by the secretary of health and 40912
human services under Title XX of the "Social Security Act," 88 40913
Stat. 2337, 42 U.S.C. 1397, as amended; 40914

(7) Neither the kinship caregiver nor the minor child is 40915
participating in the Ohio works first program established under 40916
Chapter 5107. of the Revised Code or has had participation in the 40917
Ohio works first program terminated because of a sanction imposed 40918
under section 5107.16 of the Revised Code; 40919

(8) Section 2151.86 of the Revised Code does not require a 40920
public children services agency to deny the application; 40921

(9) The kinship caregiver and minor child meet all other 40922
eligibility requirements established in rules adopted under 40923
division (D) of this section. 40924

(C) Public children services agencies shall make eligibility 40925
determinations and redeterminations for the kinship caregiver 40926
subsidy program in accordance with rules adopted under division 40927
(D) of this section. Eligibility redeterminations shall be done 40928
annually. The director of job and family services shall supervise 40929
public children services agencies' duties under this section. 40930

(D) The director of job and family services shall adopt rules 40931
in accordance with Chapter 119. of the Revised Code as necessary 40932
to implement the kinship caregiver subsidy program. The rules 40933
shall establish all of the following: 40934

(1) The application process for the program; 40935

(2) The placement approval process through which a minor 40936
child is placed with a kinship caregiver for the kinship caregiver 40937
to be eligible for the program; 40938

(3) Additional eligibility requirements for the program; 40939

(4) The eligibility determination and redetermination process 40940

<u>for the program;</u>	40941
<u>(5) The amount of the subsidy provided under the program;</u>	40942
<u>(6) The method by which the subsidy is provided to a kinship caregiver on behalf of an eligible minor child;</u>	40943
<u>(7) Anything else the director considers necessary to implement the program.</u>	40944
<u>Sec. 5101.803. (A) There is hereby created the Title IV-A demonstration program to provide funding for innovative and promising prevention and intervention projects that meet one or more of the four purposes of the temporary assistance for needy families block grant as specified in 42 U.S.C. 601 and are for individuals with specific and multiple barriers to achieving or maintaining self-sufficiency and personal responsibility. The department of job and family services may provide funding for such projects to government entities and, to the extent permitted by federal law, private, not-for-profit entities with which the department enters into agreements under division (B)(2) of section 5101.801 of the Revised Code.</u>	40945
<u>In accordance with criteria the department develops, the department may solicit proposals for entities seeking to enter into an agreement with the department under division (B)(2) of section 5101.801 of the Revised Code. The department may enter into such agreements with entities that do both of the following:</u>	40946
<u>(1) Meet the proposals' criteria;</u>	40947
<u>(2) If the entity's proposed project does not potentially affect persons in each county of the state, provides the department evidence that the entity has notified, in writing, the county department of job and family services of each county where persons may be affected by the implementation of the project.</u>	40948
<u>(B) In developing the criteria, soliciting the proposals, and</u>	40949

entering in the agreements, the department shall comply with all 40971
applicable federal and state laws, the Title IV-A state plan 40972
submitted to the United States secretary of health and human 40973
services under section 5101.80 of the Revised Code, amendments to 40974
the Title IV-A state plan submitted to the United States secretary 40975
under that section, and federal waivers the United States 40976
secretary grants. 40977

Sec. 5101.821. Except as otherwise approved by the director 40978
of budget and management, the department of job and family 40979
services shall deposit federal funds received under Title IV-A of 40980
the "Social Security Act," 42 U.S.C.A. 601, 110 Stat. 2113 (1996), 40981
into the temporary assistance for needy families (TANF) federal 40982
fund, which is hereby created in the state treasury. The 40983
department shall use money in the fund for the Ohio works first 40984
program established under Chapter 5107. of the Revised Code; the 40985
prevention, retention, and contingency program established under 40986
Chapter 5108. of the Revised Code; social services provided 40987
pursuant to section 5101.461 of the Revised Code; and any other 40988
purposes consistent with Title IV-A, federal regulations, federal 40989
waivers granted by the United States secretary of health and human 40990
services, state law, the Title IV-A state plan and amendments 40991
submitted to the United States secretary of health and human 40992
services under section 5101.80 of the Revised Code, and rules 40993
adopted by the department under section 5107.05 of the Revised 40994
Code. 40995

Sec. 5104.01. As used in this chapter: 40996

(A) "Administrator" means the person responsible for the 40997
daily operation of a center or type A home. The administrator and 40998
the owner may be the same person. 40999

(B) "Approved child day camp" means a child day camp approved 41000

pursuant to section 5104.22 of the Revised Code. 41001

(C) "Authorized provider" means a person authorized by a 41002
county director of job and family services to operate a certified 41003
type B family day-care home. 41004

(D) "Border state child care provider" means a child care 41005
provider that is located in a state bordering Ohio and that is 41006
licensed, certified, or otherwise approved by that state to 41007
provide child care. 41008

(E) "Caretaker parent" means the father or mother of a child 41009
whose presence in the home is needed as the caretaker of the 41010
child, a person who has legal custody of a child and whose 41011
presence in the home is needed as the caretaker of the child, a 41012
guardian of a child whose presence in the home is needed as the 41013
caretaker of the child, and any other person who stands in loco 41014
parentis with respect to the child and whose presence in the home 41015
is needed as the caretaker of the child. 41016

(F) "Certified type B family day-care home" and "certified 41017
type B home" mean a type B family day-care home that is certified 41018
by the director of the county department of job and family 41019
services pursuant to section 5104.11 of the Revised Code to 41020
receive public funds for providing child care pursuant to this 41021
chapter and any rules adopted under it. 41022

(G) "Chartered nonpublic school" means a school that meets 41023
standards for nonpublic schools prescribed by the state board of 41024
education for nonpublic schools pursuant to section 3301.07 of the 41025
Revised Code. 41026

(H) "Child" includes an infant, toddler, preschool child, or 41027
school child. 41028

(I) "Child care block grant act" means the "Child Care and 41029
Development Block Grant Act of 1990," established in section 5082 41030

of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 41031
1388-236 (1990), 42 U.S.C. 9858, as amended. 41032

(J) "Child day camp" means a program in which only school 41033
children attend or participate, that operates for no more than 41034
seven hours per day, that operates only during one or more public 41035
school district's regular vacation periods or for no more than 41036
fifteen weeks during the summer, and that operates outdoor 41037
activities for each child who attends or participates in the 41038
program for a minimum of fifty per cent of each day that children 41039
attend or participate in the program, except for any day when 41040
hazardous weather conditions prevent the program from operating 41041
outdoor activities for a minimum of fifty per cent of that day. 41042
For purposes of this division, the maximum seven hours of 41043
operation time does not include transportation time from a child's 41044
home to a child day camp and from a child day camp to a child's 41045
home. 41046

(K) "Child care" means administering to the needs of infants, 41047
toddlers, preschool children, and school children outside of 41048
school hours by persons other than their parents or guardians, 41049
custodians, or relatives by blood, marriage, or adoption for any 41050
part of the twenty-four-hour day in a place or residence other 41051
than a child's own home. 41052

(L) "Child day-care center" and "center" mean any place in 41053
which child care or publicly funded child care is provided for 41054
thirteen or more children at one time or any place that is not the 41055
permanent residence of the licensee or administrator in which 41056
child care or publicly funded child care is provided for seven to 41057
twelve children at one time. In counting children for the purposes 41058
of this division, any children under six years of age who are 41059
related to a licensee, administrator, or employee and who are on 41060
the premises of the center shall be counted. "Child day-care 41061
center" and "center" do not include any of the following: 41062

(1) A place located in and operated by a hospital, as defined 41063
in section 3727.01 of the Revised Code, in which the needs of 41064
children are administered to, if all the children whose needs are 41065
being administered to are monitored under the on-site supervision 41066
of a physician licensed under Chapter 4731. of the Revised Code or 41067
a registered nurse licensed under Chapter 4723. of the Revised 41068
Code, and the services are provided only for children who, in the 41069
opinion of the child's parent, guardian, or custodian, are 41070
exhibiting symptoms of a communicable disease or other illness or 41071
are injured; 41072

(2) A child day camp; 41073

(3) A place that provides child care, but not publicly funded 41074
child care, if all of the following apply: 41075

(a) An organized religious body provides the child care; 41076

(b) A parent, custodian, or guardian of at least one child 41077
receiving child care is on the premises and readily accessible at 41078
all times; 41079

(c) The child care is not provided for more than thirty days 41080
a year; 41081

(d) The child care is provided only for preschool and school 41082
children. 41083

(M) "Child care resource and referral service organization" 41084
means a community-based nonprofit organization that provides child 41085
care resource and referral services but not child care. 41086

(N) "Child care resource and referral services" means all of 41087
the following services: 41088

(1) Maintenance of a uniform data base of all child care 41089
providers in the community that are in compliance with this 41090
chapter, including current occupancy and vacancy data; 41091

(2) Provision of individualized consumer education to 41092

families seeking child care;	41093
(3) Provision of timely referrals of available child care providers to families seeking child care;	41094 41095
(4) Recruitment of child care providers;	41096
(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;	41097 41098 41099 41100
(6) Collection and analysis of data on the supply of and demand for child care in the community;	41101 41102
(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs;	41103 41104 41105
(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;	41106 41107 41108
(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;	41109 41110
(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;	41111 41112 41113 41114
(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.	41115 41116 41117 41118
(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	41119 41120 41121 41122

involved in other duties. 41123

(P) "Drop-in child day-care center," "drop-in center," 41124
"drop-in type A family day-care home," and "drop-in type A home" 41125
mean a center or type A home that provides child care or publicly 41126
funded child care for children on a temporary, irregular basis. 41127

(Q) "Employee" means a person who either: 41128

(1) Receives compensation for duties performed in a child 41129
day-care center or type A family day-care home; 41130

(2) Is assigned specific working hours or duties in a child 41131
day-care center or type A family day-care home. 41132

(R) "Employer" means a person, firm, institution, 41133
organization, or agency that operates a child day-care center or 41134
type A family day-care home subject to licensure under this 41135
chapter. 41136

(S) "Federal poverty line" means the official poverty 41137
guideline as revised annually in accordance with section 673(2) of 41138
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 41139
U.S.C. 9902, as amended, for a family size equal to the size of 41140
the family of the person whose income is being determined. 41141

(T) "Head start program" means a comprehensive child 41142
development program that receives funds distributed under the 41143
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 41144
~~amended, or under sections 3301.31 to 3301.37 of the Revised Code.~~ 41145

(U) "Income" means gross income, as defined in section 41146
5107.10 of the Revised Code, less any amounts required by federal 41147
statutes or regulations to be disregarded. 41148

(V) "Indicator checklist" means an inspection tool, used in 41149
conjunction with an instrument-based program monitoring 41150
information system, that contains selected licensing requirements 41151
that are statistically reliable indicators or predictors of a 41152

child day-care center or type A family day-care home's compliance 41153
with licensing requirements. 41154

(W) "Infant" means a child who is less than eighteen months 41155
of age. 41156

(X) "In-home aide" means a person certified by a county 41157
director of job and family services pursuant to section 5104.12 of 41158
the Revised Code to provide publicly funded child care to a child 41159
in a child's own home pursuant to this chapter and any rules 41160
adopted under it. 41161

(Y) "Instrument-based program monitoring information system" 41162
means a method to assess compliance with licensing requirements 41163
for child day-care centers and type A family day-care homes in 41164
which each licensing requirement is assigned a weight indicative 41165
of the relative importance of the requirement to the health, 41166
growth, and safety of the children that is used to develop an 41167
indicator checklist. 41168

(Z) "License capacity" means the maximum number in each age 41169
category of children who may be cared for in a child day-care 41170
center or type A family day-care home at one time as determined by 41171
the director of job and family services considering building 41172
occupancy limits established by the department of commerce, number 41173
of available child-care staff members, amount of available indoor 41174
floor space and outdoor play space, and amount of available play 41175
equipment, materials, and supplies. 41176

(AA) "Licensed preschool program" or "licensed school child 41177
program" means a preschool program or school child program, as 41178
defined in section 3301.52 of the Revised Code, that is licensed 41179
by the department of education pursuant to sections 3301.52 to 41180
3301.59 of the Revised Code. 41181

(BB) "Licensee" means the owner of a child day-care center or 41182
type A family day-care home that is licensed pursuant to this 41183

chapter and who is responsible for ensuring its compliance with 41184
this chapter and rules adopted pursuant to this chapter. 41185

(CC) "Operate a child day camp" means to operate, establish, 41186
manage, conduct, or maintain a child day camp. 41187

(DD) "Owner" includes a person, as defined in section 1.59 of 41188
the Revised Code, or government entity. 41189

(EE) "Parent cooperative child day-care center," "parent 41190
cooperative center," "parent cooperative type A family day-care 41191
home," and "parent cooperative type A home" mean a corporation or 41192
association organized for providing educational services to the 41193
children of members of the corporation or association, without 41194
gain to the corporation or association as an entity, in which the 41195
services of the corporation or association are provided only to 41196
children of the members of the corporation or association, 41197
ownership and control of the corporation or association rests 41198
solely with the members of the corporation or association, and at 41199
least one parent-member of the corporation or association is on 41200
the premises of the center or type A home during its hours of 41201
operation. 41202

(FF) "Part-time child day-care center," "part-time center," 41203
"part-time type A family day-care home," and "part-time type A 41204
home" mean a center or type A home that provides child care or 41205
publicly funded child care for no more than four hours a day for 41206
any child. 41207

(GG) "Place of worship" means a building where activities of 41208
an organized religious group are conducted and includes the 41209
grounds and any other buildings on the grounds used for such 41210
activities. 41211

(HH) "Preschool child" means a child who is three years old 41212
or older but is not a school child. 41213

(II) "Protective child care" means publicly funded child care 41214
for the direct care and protection of a child to whom either of 41215
the following applies: 41216

(1) A case plan prepared and maintained for the child 41217
pursuant to section 2151.412 of the Revised Code indicates a need 41218
for protective care and the child resides with a parent, 41219
stepparent, guardian, or another person who stands in loco 41220
parentis as defined in rules adopted under section 5104.38 of the 41221
Revised Code; 41222

(2) The child and the child's caretaker either temporarily 41223
reside in a facility providing emergency shelter for homeless 41224
families or are determined by the county department of job and 41225
family services to be homeless, and are otherwise ineligible for 41226
publicly funded child care. 41227

(JJ) "Publicly funded child care" means administering to the 41228
needs of infants, toddlers, preschool children, and school 41229
children under age thirteen during any part of the 41230
twenty-four-hour day by persons other than their caretaker parents 41231
for remuneration wholly or in part with federal or state funds, 41232
including funds available under the child care block grant act, 41233
Title IV-A, and Title XX, distributed by the department of job and 41234
family services. 41235

(KK) "Religious activities" means any of the following: 41236
worship or other religious services; religious instruction; Sunday 41237
school classes or other religious classes conducted during or 41238
prior to worship or other religious services; youth or adult 41239
fellowship activities; choir or other musical group practices or 41240
programs; meals; festivals; or meetings conducted by an organized 41241
religious group. 41242

(LL) "School child" means a child who is enrolled in or is 41243
eligible to be enrolled in a grade of kindergarten or above but is 41244

less than fifteen years old. 41245

(MM) "School child day-care center," "school child center," 41246
"school child type A family day-care home," and "school child type 41247
A family home" mean a center or type A home that provides child 41248
care for school children only and that does either or both of the 41249
following: 41250

(1) Operates only during that part of the day that 41251
immediately precedes or follows the public school day of the 41252
school district in which the center or type A home is located; 41253

(2) Operates only when the public schools in the school 41254
district in which the center or type A home is located are not 41255
open for instruction with pupils in attendance. 41256

(NN) "State median income" means the state median income 41257
calculated by the department of development pursuant to division 41258
(A)(1)(g) of section 5709.61 of the Revised Code. 41259

(OO) "Title IV-A" means Title IV-A of the "Social Security 41260
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 41261

(PP) "Title XX" means Title XX of the "Social Security Act," 41262
88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 41263

(QQ) "Toddler" means a child who is at least eighteen months 41264
of age but less than three years of age. 41265

(RR) "Type A family day-care home" and "type A home" mean a 41266
permanent residence of the administrator in which child care or 41267
publicly funded child care is provided for seven to twelve 41268
children at one time or a permanent residence of the administrator 41269
in which child care is provided for four to twelve children at one 41270
time if four or more children at one time are under two years of 41271
age. In counting children for the purposes of this division, any 41272
children under six years of age who are related to a licensee, 41273
administrator, or employee and who are on the premises of the type 41274

A home shall be counted. "Type A 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 A family day-care
home" and "type A home" do not include any child day camp.

(SS) "Type B family day-care home" and "type B home" mean a
permanent residence of the provider in which child care is
provided for one to six children at one time and in which no more
than three children are under two years of age at one time. In
counting children for the purposes of this division, any children
under six years of age who are related to the provider and who are
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 41306
family services shall prescribe a standard form to be used for all 41307
contracts for the purchase of publicly funded child care, 41308
regardless of the source of public funds used to purchase the 41309
child care. To the extent permitted by federal law and 41310
notwithstanding any other provision of the Revised Code that 41311
regulates state or county contracts or contracts involving the 41312
expenditure of state, county, or federal funds, all contracts for 41313
publicly funded child care shall be entered into in accordance 41314
with the provisions of this chapter and are exempt from any other 41315
provision of the Revised Code that regulates state or county 41316
contracts or contracts involving the expenditure of state, county, 41317
or federal funds. 41318

(B) Each contract for publicly funded child care shall 41319
specify at least the following: 41320

(1) That the provider of publicly funded child care agrees to 41321
be paid for rendering services at the lowest of the rate 41322
customarily charged by the provider for children enrolled for 41323
child care, the reimbursement ceiling or rate of payment 41324
established pursuant to section 5104.30 of the Revised Code, or a 41325
rate the county department negotiates with the provider; 41326

(2) That, if a provider provides child care to an individual 41327
potentially eligible for publicly funded child care who is 41328
subsequently determined to be eligible, the county department 41329
agrees to pay for all child care provided between the date the 41330
county department receives the individual's completed application 41331
and the date the individual's eligibility is determined; 41332

(3) Whether the county department of job and family services, 41333
the provider, or a child care resource and referral service 41334
organization will make eligibility determinations, whether the 41335
provider or a child care resource and referral service 41336
organization will be required to collect information to be used by 41337

the county department to make eligibility determinations, and the 41338
time period within which the provider or child care resource and 41339
referral service organization is required to complete required 41340
eligibility determinations or to transmit to the county department 41341
any information collected for the purpose of making eligibility 41342
determinations; 41343

(4) That the provider, other than a border state child care 41344
provider ~~or except as provided in division (B) of section 3301.37~~ 41345
~~of the Revised Code~~, shall continue to be licensed, approved, or 41346
certified pursuant to this chapter and shall comply with all 41347
standards and other requirements in this chapter and in rules 41348
adopted pursuant to this chapter for maintaining the provider's 41349
license, approval, or certification; 41350

(5) That, in the case of a border state child care provider, 41351
the provider shall continue to be licensed, certified, or 41352
otherwise approved by the state in which the provider is located 41353
and shall comply with all standards and other requirements 41354
established by that state for maintaining the provider's license, 41355
certificate, or other approval; 41356

(6) Whether the provider will be paid by the county 41357
department of job and family services or the state department of 41358
job and family services; 41359

(7) That the contract is subject to the availability of state 41360
and federal funds. 41361

(C) Unless specifically prohibited by federal law, the county 41362
department of job and family services shall give individuals 41363
eligible for publicly funded child care the option of obtaining 41364
certificates for payment that the individual may use to purchase 41365
services from any provider qualified to provide publicly funded 41366
child care under section 5104.31 of the Revised Code. Providers of 41367
publicly funded child care may present these certificates for 41368

payment for reimbursement in accordance with rules that the 41369
director of job and family services shall adopt. Only providers 41370
may receive reimbursement for certificates for payment. The value 41371
of the certificate for payment shall be based on the lowest of the 41372
rate customarily charged by the provider, the reimbursement 41373
ceiling or rate of payment established pursuant to section 5104.30 41374
of the Revised Code, or a rate the county department negotiates 41375
with the provider. The county department may provide the 41376
certificates for payment to the individuals or may contract with 41377
child care providers or child care resource and referral service 41378
organizations that make determinations of eligibility for publicly 41379
funded child care pursuant to contracts entered into under section 41380
5104.34 of the Revised Code for the providers or resource and 41381
referral service organizations to provide the certificates for 41382
payment to individuals whom they determine are eligible for 41383
publicly funded child care. 41384

For each six-month period a provider of publicly funded child 41385
care provides publicly funded child day-care to the child of an 41386
individual given certificates for payment, the individual shall 41387
provide the provider certificates for days the provider would have 41388
provided publicly funded child care to the child had the child 41389
been present. County departments shall specify the maximum number 41390
of days providers will be provided certificates of payment for 41391
days the provider would have provided publicly funded child care 41392
had the child been present. The maximum number of days shall not 41393
exceed ten days in a six-month period during which publicly funded 41394
child care is provided to the child regardless of the number of 41395
providers that provide publicly funded child care to the child 41396
during that period. 41397

Sec. 5104.38. In addition to any other rules adopted under 41398
this chapter, the director of job and family services shall adopt 41399

rules in accordance with Chapter 119. of the Revised Code 41400
governing financial and administrative requirements for publicly 41401
funded child care and establishing all of the following: 41402

(A) Procedures and criteria to be used in making 41403
determinations of eligibility for publicly funded child care that 41404
give priority to children of families with lower incomes and 41405
procedures and criteria for eligibility for publicly funded 41406
protective child care. The rules shall specify the maximum amount 41407
of income a family may have for initial and continued eligibility. 41408
The maximum amount shall not exceed two hundred per cent of the 41409
federal poverty line. 41410

(B) Procedures under which a county department of job and 41411
family services may, if the department, under division (A) of this 41412
section, specifies a maximum amount of income a family may have 41413
for eligibility for publicly funded child care that is less than 41414
the maximum amount specified in that division, specify a maximum 41415
amount of income a family residing in the county the county 41416
department serves may have for initial and continued eligibility 41417
for publicly funded child care that is higher than the amount 41418
specified by the department but does not exceed the maximum amount 41419
specified in division (A) of this section; 41420

(C) A schedule of fees requiring all eligible caretaker 41421
parents to pay a fee for publicly funded child care according to 41422
income and family size, which shall be uniform for all types of 41423
publicly funded child care, except as authorized by rule, and, to 41424
the extent permitted by federal law, shall permit the use of state 41425
and federal funds to pay the customary deposits and other advance 41426
payments that a provider charges all children who receive child 41427
care from that provider. The schedule of fees ~~may not provide for~~ 41428
~~a caretaker parent to pay a fee that exceeds ten per cent of the~~ 41429
~~parent's family income shall be calculated as permitted by federal~~ 41430
law. 41431

(D) A formula based upon a percentage of the county's total 41432
expenditures for publicly funded child care for determining the 41433
maximum amount of state and federal funds appropriated for 41434
publicly funded child care that a county department may use for 41435
administrative purposes; 41436

(E) Procedures to be followed by the department and county 41437
departments in recruiting individuals and groups to become 41438
providers of child care; 41439

(F) Procedures to be followed in establishing state or local 41440
programs designed to assist individuals who are eligible for 41441
publicly funded child care in identifying the resources available 41442
to them and to refer the individuals to appropriate sources to 41443
obtain child care; 41444

(G) Procedures to deal with fraud and abuse committed by 41445
either recipients or providers of publicly funded child care; 41446

(H) Procedures for establishing a child care grant or loan 41447
program in accordance with the child care block grant act; 41448

(I) Standards and procedures for applicants to apply for 41449
grants and loans, and for the department to make grants and loans; 41450

(J) A definition of "person who stands in loco parentis" for 41451
the purposes of division (II)(1) of section 5104.01 of the Revised 41452
Code; 41453

(K) Procedures for a county department of job and family 41454
services to follow in making eligibility determinations and 41455
redeterminations for publicly funded child care available through 41456
telephone, computer, and other means at locations other than the 41457
county department; 41458

(L) Any other rules necessary to carry out sections 5104.30 41459
to 5104.39 of the Revised Code. 41460

Sec. 5107.05. The director of job and family services shall 41461
adopt rules to implement this chapter. The rules shall be 41462
consistent with Title IV-A, Title IV-D, federal regulations, state 41463
law, the Title IV-A state plan submitted to the United States 41464
secretary of health and human services under section 5101.80 of 41465
the Revised Code, amendments to the plan, and waivers granted by 41466
the United States secretary. Rules governing eligibility, program 41467
participation, and other applicant and participant requirements 41468
shall be adopted in accordance with Chapter 119. of the Revised 41469
Code. Rules governing financial and other administrative 41470
requirements applicable to the department of job and family 41471
services and county departments of job and family services shall 41472
be adopted in accordance with section 111.15 of the Revised Code. 41473

(A) The rules shall specify, establish, or govern all of the 41474
following: 41475

(1) A payment standard for Ohio works first based on federal 41476
and state appropriations; 41477

(2) The method of determining the amount of cash assistance 41478
an assistance group receives under Ohio works first; 41479

(3) Requirements for initial and continued eligibility for 41480
Ohio works first, including requirements regarding income, 41481
citizenship, age, residence, and assistance group composition. The 41482
rules regarding income shall specify what is countable income, 41483
gross earned income, and gross unearned income for the purpose of 41484
section 5107.10 of the Revised Code. 41485

(4) For the purpose of section 5107.12 of the Revised Code, 41486
application and verification procedures, including the minimum 41487
information an application must contain; 41488

(5) The extent to which a participant of Ohio works first 41489
must notify, pursuant to section 5107.12 of the Revised Code, a 41490
county department of job and family services of additional income 41491

not previously reported to the county department; 41492

(6) The department of job and family services providing 41493
written notice of a sanction under section 5107.161 of the Revised 41494
Code; 41495

(7) Requirements for the collection and distribution of 41496
support payments owed participants of Ohio works first pursuant to 41497
section 5107.20 of the Revised Code; 41498

(8) For the purpose of section 5107.22 of the Revised Code, 41499
what constitutes cooperating in establishing a minor child's 41500
paternity or establishing, modifying, or enforcing a child support 41501
order and good cause for failure or refusal to cooperate. The rule 41502
shall be consistent with 42 U.S.C.A. 654(29). 41503

(9) The administration of requirements governing the LEAP 41504
program provided for under section 5107.30 of the Revised Code, 41505
including the definitions of "equivalent of a high school diploma" 41506
and "good cause," and the incentives provided under the LEAP 41507
program; 41508

(10) If the director implements section 5107.301 of the 41509
Revised Code, the requirements governing the award provided under 41510
that section, including the form that the award is to take and 41511
requirements an individual must satisfy to receive the award; 41512

(11) Circumstances under which a county department of job and 41513
family services may exempt a minor head of household or adult from 41514
participating in a work activity or developmental activity for all 41515
or some of the weekly hours otherwise required by section 5107.43 41516
of the Revised Code. Circumstances shall include that a school or 41517
place of work is closed due to a holiday or weather or other 41518
emergency and that an employer grants the minor head of household 41519
or adult leave for illness or earned vacation. 41520

~~(11)~~(12) The maximum amount of time the department will 41521

subsidize positions created by state agencies and political 41522
subdivisions under division (C) of section 5107.52 of the Revised 41523
Code. 41524

(B) The rules may provide that a county department of job and 41525
family services is not required to take action under section 41526
5107.76 of the Revised Code to recover an erroneous payment that 41527
is below an amount the department specifies. 41528

Sec. 5107.10. (A) As used in this section: 41529

(1) "Countable income," "gross earned income," and "gross 41530
unearned income" have the meanings established in rules adopted 41531
under section 5107.05 of the Revised Code. 41532

(2) "Federal poverty guidelines" has the same meaning as in 41533
section 5101.46 of the Revised Code, except that references to a 41534
person's family in the definition shall be deemed to be references 41535
to the person's assistance group. 41536

(3) "Gross income" means gross earned income and gross 41537
unearned income. 41538

~~(3)~~(4) "Initial eligibility threshold" means the higher of 41539
the following: 41540

(a) Fifty per cent of the federal poverty guidelines; 41541

(b) The gross income maximum for initial eligibility for Ohio 41542
works first as that maximum was set by division (D)(1)(a) of this 41543
section on the day before the effective date of this amendment. 41544

(5) "Strike" means continuous concerted action in failing to 41545
report to duty; willful absence from one's position; or stoppage 41546
of work in whole from the full, faithful, and proper performance 41547
of the duties of employment, for the purpose of inducing, 41548
influencing, or coercing a change in wages, hours, terms, and 41549
other conditions of employment. "Strike" does not include a 41550
stoppage of work by employees in good faith because of dangerous 41551

or unhealthful working conditions at the place of employment that 41552
are abnormal to the place of employment. 41553

(B) Under the Ohio works first program, an assistance group 41554
shall receive, except as otherwise provided by this chapter, 41555
time-limited cash assistance. In the case of an assistance group 41556
that includes a minor head of household or adult, assistance shall 41557
be provided in accordance with the self-sufficiency contract 41558
entered into under section 5107.14 of the Revised Code. 41559

(C) To be eligible to participate in Ohio works first, an 41560
assistance group must meet all of the following requirements: 41561

(1) The assistance group, except as provided in division (E) 41562
of this section, must include at least one of the following: 41563

(a) A minor child who, except as provided in section 5107.24 41564
of the Revised Code, resides with a parent, or specified relative 41565
caring for the child, or, to the extent permitted by Title IV-A 41566
and federal regulations adopted until Title IV-A, resides with a 41567
guardian or custodian caring for the child; 41568

(b) A parent residing with and caring for the parent's minor 41569
child who receives supplemental security income under Title XVI of 41570
the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, 41571
as amended, or federal, state, or local adoption assistance; 41572

(c) A specified relative residing with and caring for a minor 41573
child who is related to the specified relative in a manner that 41574
makes the specified relative a specified relative and receives 41575
supplemental security income or federal, state, or local foster 41576
care or adoption assistance; 41577

(d) A woman at least six months pregnant. 41578

(2) The assistance group must meet the income requirements 41579
established by division (D) of this section. 41580

(3) No member of the assistance group may be involved in a 41581

strike. 41582

(4) The assistance group must satisfy the requirements for 41583
Ohio works first established by this chapter and sections 5101.58, 41584
5101.59, and 5101.83 of the Revised Code. 41585

(5) The assistance group must meet requirements for Ohio 41586
works first established by rules adopted under section 5107.05 of 41587
the Revised Code. 41588

(D)(1) Except as provided in division (D)~~(3)~~(4) of this 41589
section, to determine whether an assistance group is initially 41590
eligible to participate in Ohio works first, a county department 41591
of job and family services shall do the following: 41592

(a) Determine whether the assistance group's gross income 41593
exceeds the following amount: 41594

Size of Assistance Group	Gross Income	41595
1	\$423	41596
2	\$537	41597
3	\$630	41598
4	\$750	41599
5	\$858	41600
6	\$942	41601
7	\$1,038	41602
8	\$1,139	41603
9	\$1,241	41604
10	\$1,343	41605
11	\$1,440	41606
12	\$1,542	41607
13	\$1,643	41608
14	\$1,742	41609
15	\$1,844	41610

~~For each person in the assistance group that brings the 41611
assistance group to more than fifteen persons, add one hundred two 41612~~

dollars to the amount of gross income for an assistance group of
fifteen specified in division (D)(1)(a) of this section. 41613
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~~In~~ initial eligibility threshold. In making this 41615
determination, the county department shall disregard amounts that 41616
federal statutes or regulations and sections 5101.17 and 5117.10 41617
of the Revised Code require be disregarded. The assistance group 41618
is ineligible to participate in Ohio works first if the assistance 41619
group's gross income, less the amounts disregarded, exceeds the 41620
~~amount specified in division (D)(1)(a) of this section~~ initial 41621
eligibility threshold. 41622

(b) If the assistance group's gross income, less the amounts 41623
disregarded pursuant to division (D)(1)(a) of this section, does 41624
not exceed the ~~amount specified in that division~~ initial 41625
eligibility threshold, determine whether the assistance group's 41626
countable income is less than the payment standard. The assistance 41627
group is ineligible to participate in Ohio works first if the 41628
assistance group's countable income equals or exceeds the payment 41629
standard. 41630

(2) For the purpose of determining whether an assistance 41631
group meets the income requirement established by division 41632
(D)(1)(a) of this section, the annual revision that the United 41633
States department of health and human services makes to the 41634
federal poverty guidelines shall go into effect on the first day 41635
of July of the year for which the revision is made. 41636

(3) To determine whether an assistance group participating in 41637
Ohio works first continues to be eligible to participate, a county 41638
department of job and family services shall determine whether the 41639
assistance group's countable income continues to be less than the 41640
payment standard. In making this determination, the county 41641
department shall disregard the first two hundred fifty dollars and 41642
fifty per cent of the remainder of the assistance group's gross 41643

earned income. No amounts shall be disregarded from the assistance 41644
group's gross unearned income. The assistance group ceases to be 41645
eligible to participate in Ohio works first if its countable 41646
income, less the amounts disregarded, equals or exceeds the 41647
payment standard. 41648

~~(3)~~(4) If an assistance group reapplies to participate in 41649
Ohio works first not more than four months after ceasing to 41650
participate, a county department of job and family services shall 41651
use the income requirement established by division (D)~~(2)~~(3) of 41652
this section to determine eligibility for resumed participation 41653
rather than the income requirement established by division (D)(1) 41654
of this section. 41655

(E)(1) An assistance group may continue to participate in 41656
Ohio works first even though a public children services agency 41657
removes the assistance group's minor children from the assistance 41658
group's home due to abuse, neglect, or dependency if the agency 41659
does both of the following: 41660

(a) Notifies the county department of job and family services 41661
at the time the agency removes the children that it believes the 41662
children will be able to return to the assistance group within six 41663
months; 41664

(b) Informs the county department at the end of each of the 41665
first five months after the agency removes the children that the 41666
parent, guardian, custodian, or specified relative of the children 41667
is cooperating with the case plans prepared for the children under 41668
section 2151.412 of the Revised Code and that the agency is making 41669
reasonable efforts to return the children to the assistance group. 41670

(2) An assistance group may continue to participate in Ohio 41671
works first pursuant to division (E)(1) of this section for not 41672
more than six payment months. This division does not affect the 41673
eligibility of an assistance group that includes a woman at least 41674

six months pregnant.

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Sec. 5107.26. (A) As used in this section:

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(1) "Transitional child care" means publicly funded child care provided under division (A)(3) of section 5104.34 of the Revised Code.

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(2) "Transitional medicaid" means the medical assistance provided under section ~~5111.023~~ 5111.0114 of the Revised Code.

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(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.

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(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.

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Just cause includes the following:

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(1) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, or national origin;

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(2) Work demands or conditions that render continued

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employment unreasonable, such as working without being paid on	41705
schedule;	41706
(3) Employment that has become unsuitable due to any of the	41707
following:	41708
(a) The wage is less than the federal minimum wage;	41709
(b) The work is at a site subject to a strike or lockout,	41710
unless the strike has been enjoined under section 208 of the	41711
"Labor-Management Relations Act," 61 Stat. 155 (1947), 29 U.S.C.A.	41712
178, as amended, an injunction has been issued under section 10 of	41713
the "Railway Labor Act," 44 Stat. 586 (1926), 45 U.S.C.A. 160, as	41714
amended, or an injunction has been issued under section 4117.16 of	41715
the Revised Code;	41716
(c) The documented degree of risk to the member or	41717
recipient's health and safety is unreasonable;	41718
(d) The member or recipient is physically or mentally unfit	41719
to perform the employment, as documented by medical evidence or by	41720
reliable information from other sources.	41721
(4) Documented illness of the member or recipient or of	41722
another assistance group member of the member or recipient	41723
requiring the presence of the member or recipient;	41724
(5) A documented household emergency;	41725
(6) Lack of adequate child care for children of the member or	41726
recipient who are under six years of age.	41727
Sec. 5107.30. (A) As used in this section:	41728
(1) <u>"Equivalent of a high school diploma" and "good cause"</u>	41729
<u>have the meanings established in rules adopted under section</u>	41730
<u>5107.05 of the Revised Code.</u>	41731
(2) "LEAP program" means the learning, earning, and parenting	41732
program.	41733

~~(2) "Teen"~~ (3) "Participating teen" means an individual to 41734
whom all of the following apply: 41735

(a) The individual is a participant of Ohio works first ~~who;~~ 41736

(b) The individual is under age eighteen or is age eighteen 41737
and in school and is a natural or adoptive parent or is pregnant; 41738

(c) The individual is subject to the LEAP program's 41739
requirements. 41740

~~(3)~~(4) "School" means an educational program that is designed 41741
to lead to the attainment of a high school diploma or the 41742
equivalent of a high school diploma. 41743

(B) The director of job and family services may ~~adopt rules~~ 41744
~~under section 5107.05 of the Revised Code, to the extent that such~~ 41745
~~rules are consistent with federal law, to do all of the following:~~ 41746

~~(1) Define "good cause" and "the equivalent of a high school~~ 41747
~~diploma" for the purposes of this section;~~ 41748

~~(2) Conduct~~ conduct a program titled the "LEAP program" ~~and~~ 41749
~~establish requirements governing the program in accordance with~~ 41750
rules adopted under section 5107.05 of the Revised Code. The 41751
purpose of the LEAP program is to encourage teens to complete 41752
school. 41753

~~(3) Require every~~ Every participating teen ~~who is subject to~~ 41754
~~LEAP program requirements to~~ shall attend school in accordance 41755
with the requirements governing the LEAP program unless the 41756
participating teen shows good cause for not attending school. The 41757
department shall provide, in addition to the cash assistance 41758
payment provided under Ohio works first, an incentive payment, in 41759
an amount determined by the department, to every participating 41760
teen ~~who is participating in the LEAP program and~~ attends school 41761
in accordance with the requirements governing the LEAP program. In 41762
addition to the incentive payment, the department may provide 41763

other incentives to participating teens who attend school in 41764
accordance with the LEAP program's requirements. The department 41765
shall reduce the cash assistance payment, in an amount determined 41766
by the department, under Ohio works first to every participating 41767
teen ~~participating in the LEAP program~~ who fails or refuses, 41768
without good cause, to meet the LEAP program's requirements 41769
~~governing the program.~~ 41770

~~(4) Require every~~ Every participating teen who is subject to 41771
~~LEAP program requirements to~~ shall enter into a written agreement 41772
with the county department of job and family services that 41773
~~provides~~ specifies all of the following: 41774

~~(a)(1)~~ The participating teen, to be eligible to receive the 41775
incentive payment and other incentives, if any, under ~~division~~ 41776
~~(B)(3)~~ of this section, must meet the requirements of the LEAP 41777
program. 41778

~~(b)(2)~~ The ~~county department will provide the~~ incentive 41779
payment ~~to the teen and~~ and other incentives, if any, will be provided 41780
if the participating teen meets the requirements of the LEAP 41781
program. 41782

~~(c)(3)~~ The ~~county department will reduce the~~ participating 41783
teen's cash assistance payment under Ohio works first will be 41784
reduced if the participating teen fails or refuses without good 41785
cause to attend school in accordance with the requirements 41786
governing the LEAP program. 41787

(C) A minor head of household who is participating in the 41788
LEAP program shall be considered to be participating in a work 41789
activity for the purpose of sections 5107.40 to 5107.69 of the 41790
Revised Code. However, the minor head of household is not subject 41791
to the requirements or sanctions of those sections. 41792

(D) Subject to the availability of funds, county departments 41793
of job and family services shall provide for ~~LEAP participants~~ 41794

participating teens to receive support services the county 41795
department determines to be necessary for LEAP participation. 41796
Support services may include publicly funded child care under 41797
Chapter 5104. of the Revised Code, transportation, and other 41798
services. 41799

Sec. 5107.301. For the purpose of encouraging individuals who 41800
have successfully completed the requirements of the LEAP program 41801
to enroll in post-secondary education, the director of job and 41802
family services may provide an award to such individuals who 41803
enroll in post-secondary education. If provided, the award shall 41804
be provided in accordance with rules adopted under section 5107.05 41805
of the Revised Code. 41806

Sec. 5107.58. In accordance with a federal waiver granted by 41807
the United States secretary of health and human services pursuant 41808
to a request made under former section 5101.09 of the Revised 41809
Code, county departments of job and family services may establish 41810
and administer as a work activity for minor heads of households 41811
and adults participating in Ohio works first an education program 41812
under which the participant is enrolled full-time in 41813
post-secondary education leading to vocation at a state 41814
institution of higher education, as defined in section 3345.031 of 41815
the Revised Code; a private nonprofit college or university that 41816
possesses a certificate of authorization issued by the Ohio board 41817
of regents pursuant to Chapter 1713. of the Revised Code, or is 41818
exempted by division (E) of section 1713.02 of the Revised Code 41819
from the requirement of a certificate; a school that holds a 41820
certificate of registration and program authorization issued by 41821
the state board of career colleges and schools under Chapter 3332. 41822
of the Revised Code; a private institution exempt from regulation 41823
under Chapter 3332. of the Revised Code as prescribed in section 41824
3333.046 of the Revised Code; or a school that has entered into a 41825

contract with the county department of job and family services. 41826
The participant shall make reasonable efforts, as determined by 41827
the county department, to obtain a loan, scholarship, grant, or 41828
other assistance to pay for the tuition, including a federal Pell 41829
grant under 20 U.S.C.A. 1070a ~~and~~, an Ohio instructional grant 41830
under section 3333.12 of the Revised Code, and an Ohio college 41831
opportunity grant under section 3333.122 of the Revised Code. If 41832
the participant has made reasonable efforts but is unable to 41833
obtain sufficient assistance to pay the tuition the program may 41834
pay the tuition. On or after October 1, 1998, the county 41835
department may enter into a loan agreement with the participant to 41836
pay the tuition. The total period for which tuition is paid and 41837
loans made shall not exceed two years. If the participant, 41838
pursuant to division (B)(3) of section 5107.43 of the Revised 41839
Code, volunteers to participate in the education program for more 41840
hours each week than the participant is assigned to the program, 41841
the program may pay or the county department may loan the cost of 41842
the tuition for the additional voluntary hours as well as the cost 41843
of the tuition for the assigned number of hours. The participant 41844
may receive, for not more than three years, support services, 41845
including publicly funded child care under Chapter 5104. of the 41846
Revised Code and transportation, that the participant needs to 41847
participate in the program. To receive support services in the 41848
third year, the participant must be, as determined by the 41849
educational institution in which the participant is enrolled, in 41850
good standing with the institution. 41851

A county department that provides loans under this section 41852
shall establish procedures governing loan application for and 41853
approval and administration of loans granted pursuant to this 41854
section. 41855

Sec. 5110.01. As used in this chapter: 41856

(A) "Administrative fee" means the amount specified in rules adopted under division (G) of section 5110.35 of the Revised Code. 41857
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(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. 41859
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~~(C) "Disability medical assistance program" means the program established under section 5115.10 of the Revised Code.~~ 41862
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~~(D)~~ "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code. 41864
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~~(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. 41866
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~~(F)~~(E) "Ohio's best Rx program administrator" means the entity, if any, the department of job and family services contracts with pursuant to section 5110.10 of the Revised Code to perform administrative functions of the Ohio's best Rx program and to offer the mail order system through which Ohio's best Rx program participants may obtain drugs by mail. 41870
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~~(G)~~(F) "Ohio's best Rx program applicant" or "applicant" means an individual who signs an application for the Ohio's best Rx program and submits it to the department of job and family services, or the Ohio's best Rx program administrator, for a determination of eligibility for the program. 41876
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~~(H)~~(G) "Ohio's best Rx program participant" or "participant" means an individual determined eligible for the Ohio's best Rx program and included under a valid Ohio's best Rx program enrollment card. 41881
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~~(I)~~(H) "Ohio's best Rx program price" means the price a participating terminal distributor is to charge an Ohio's best Rx 41885
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program participant for a drug included in the Ohio's best Rx 41887
program as determined under section 5110.14 of the Revised Code. 41888
"Ohio's best Rx program price" does not include either of the 41889
following: 41890

(1) The amount of the professional fee, if any, the 41891
participating terminal distributor adds to the Ohio's best Rx 41892
program price pursuant to an agreement under section 5110.12 of 41893
the Revised Code; 41894

(2) The amount of the administrative fee, if any, the 41895
department of job and family services reports to the participating 41896
terminal distributor under section 5110.29 of the Revised Code. 41897

~~(J)~~(I) "Participating manufacturer" means a drug manufacturer 41898
participating in the Ohio's best Rx program pursuant to a rebate 41899
agreement. 41900

~~(K)~~(J) "Participating terminal distributor" means a terminal 41901
distributor of dangerous drugs participating in the Ohio's best Rx 41902
program pursuant to an agreement entered into with the department 41903
of job and family services under section 5110.12 of the Revised 41904
Code. 41905

~~(L)~~(K) "Per unit price," with regard to a state health 41906
benefit plan or state retirement system health benefit plan, means 41907
the total amount paid to a terminal distributor of dangerous drugs 41908
under a state health benefit plan or state retirement system 41909
health benefit plan for one unit of a drug covered by the plan, 41910
after the plan discounts or otherwise reduces the amount to be 41911
paid to the terminal distributor. "Per unit price" includes both 41912
of the following: 41913

(1) The amount that the state health benefit plan or state 41914
retirement system health benefit plan, or other government entity 41915
or person authorized to make the payment on behalf of the plan, 41916
pays to the terminal distributor of dangerous drugs; 41917

(2) The amount that the beneficiary of the state health benefit plan or state retirement system health benefit plan pays to the terminal distributor of dangerous drugs in the form of a copayment, coinsurance, or other cost-sharing charge.

~~(M)~~(L) "Per unit rebate," with regard to a state health benefit plan or state retirement system health benefit plan, means all rebates, discounts, formulary fees, administrative fees, and other allowances a drug manufacturer pays to the plan, or other government entity or person authorized to receive all or part of such payments, for a drug during a calendar year, divided by the total number of units of that drug dispensed under the plan during the same calendar year.

~~(N)~~(M) "Rebate administration percentage" means the percentage specified in rules adopted under division (K) of section 5110.35 of the Revised Code.

~~(O)~~(N) "Rebate agreement" means an agreement under section 5110.21 of the Revised Code between the department of job and family services and a drug manufacturer.

~~(P)~~(O) "State health benefit plan" means a program of health care benefits offered through the Ohio med preferred provider organization, or a successor entity selected by the state, to which either of the following apply:

(1) It is provided by a collective bargaining agreement authorized by division (A)(4) of section 4117.03 of the Revised Code.

(2) It is offered by the department of administrative services to state employees in accordance with section 124.81 or 124.82 of the Revised Code.

~~(Q)~~(P) "State retirement system" means all of the following: the public employees retirement system, state teachers retirement

system, school employees retirement system, Ohio police and fire pension fund, and state highway patrol retirement system.

~~(R)~~(O) "State retirement system health benefit plan" means a plan of health care benefits offered by a state retirement system under section 145.58, 742.45, 3307.39, 3309.69, or 5505.28 of the Revised Code.

~~(S)~~(R) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.

~~(T)~~(S) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

~~(U)~~(T) "Trade secret" has the same meaning as in section 1333.61 of the Revised Code.

~~(V)~~(U) "Usual and customary charge" means the amount a participating terminal distributor or the Ohio's best Rx program administrator charges for a drug included in the program to an individual who does not receive a discounted price for the drug pursuant to any drug discount program, including the Ohio's best Rx program, a prescription drug discount card program established under section 173.061 of the Revised Code, or a pharmacy assistance program established by any person or government entity, and for whom no third-party payer or program funded in whole or part with state or federal funds is responsible for all or part of the cost of the drug the distributor dispenses to the individual.

Sec. 5110.05. (A) To be eligible for the Ohio's best Rx program, an individual must meet all of the following requirements at the time of application or reapplication for the program:

(1) Be a resident of this state;

(2) Have family income, as determined under rules adopted pursuant to section 5110.35 of the Revised Code, that does not exceed two hundred fifty per cent of the federal poverty

guidelines, as revised annually by the United States department of	41978
health and human services in accordance with section 673(2) of the	41979
"Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42	41980
U.S.C. 9902, as amended, or be sixty years of age or older;	41981
(3) Not have outpatient prescription drug coverage paid for	41982
in whole or in part by any of the following:	41983
(a) A third-party payer;	41984
(b) The medicaid program;	41985
(c) The children's health insurance program;	41986
(d) The disability medical assistance program;	41987
(e) Another health plan or pharmacy assistance program that	41988
uses state or federal funds to pay part or all of the cost of the	41989
individual's outpatient prescription drugs, other than a	41990
prescription drug discount card program established under section	41991
173.061 of the Revised Code.	41992
(4) Not have had outpatient prescription drug coverage	41993
specified in division (A)(3) of this section during any of the	41994
four months preceding the month in which the application or	41995
reapplication for the Ohio's best Rx program is made, unless any	41996
of the following applies:	41997
(a) The individual is sixty years of age or older.	41998
(b) The third-party payer that paid all or part of the	41999
coverage filed for bankruptcy under federal bankruptcy laws.	42000
(c) The individual is no longer eligible for coverage	42001
provided through a retirement plan subject to protection under the	42002
"Employee Retirement Income Security Act of 1974," 88 Stat. 832,	42003
29 U.S.C. 1001, as amended.	42004
(d) The individual is no longer eligible for the medicaid	42005
program, <u>or</u> children's health insurance program, or disability	42006

~~medical assistance program.~~ 42007

(B) Application and annual reapplication for the Ohio's best 42008
Rx program shall be made in accordance with rules adopted under 42009
section 5110.35 of the Revised Code on a form prescribed in those 42010
rules. An individual may apply or reapply on behalf of the 42011
individual and the individual's spouse and children. The guardian 42012
or custodian of an individual may apply or reapply on behalf of 42013
the individual. 42014

Sec. 5110.352. As used in this section, "medicaid dispensing 42015
fee" means the dispensing fee established under section ~~5111.08~~ 42016
5111.071 of the Revised Code for the medicaid program. 42017

In adopting a rule under division (F) of section 5110.35 of 42018
the Revised Code increasing the maximum amount of the professional 42019
fee participating terminal distributors may charge Ohio's best Rx 42020
program participants under section 5110.12 of the Revised Code and 42021
the Ohio's best Rx program administrator may charge under a 42022
contract entered into under section 5110.10 of the Revised Code, 42023
the department of job and family services shall review the amount 42024
of the professional fee once a year or, at the department's 42025
discretion, at more frequent intervals and shall not increase the 42026
professional fee to an amount exceeding the medicaid dispensing 42027
fee. 42028

A participating terminal distributor and the Ohio's best Rx 42029
program administrator may charge a maximum three dollar 42030
professional fee regardless of whether the medicaid dispensing fee 42031
for that drug is less than that amount. The department, however, 42032
may not adopt a rule increasing the maximum professional fee for 42033
that drug until the medicaid dispensing fee for that drug exceeds 42034
that amount. 42035

Sec. 5110.39. Not later than ~~April 1, 2005~~ the first day of 42036

March of each year, the department of job and family services 42037
shall do all of the following: 42038

(A) Create a list of the twenty-five drugs most often 42039
dispensed to Ohio's best Rx program participants under the 42040
program, using data from the most recent six-month period for 42041
which the data is available; 42042

(B) Determine the average amount that participating terminal 42043
distributors charge, on a date selected by the department, 42044
participants for each drug included on the list created under 42045
division (A) of this section; 42046

(C) Determine, for the date selected for division (B) of this 42047
section, the average usual and customary charge of participating 42048
terminal distributors for each drug included on the list created 42049
under division (A) of this section; 42050

(D) By comparing the average charges determined under 42051
divisions (B) and (C) of this section, determine the average 42052
percentage savings in the amount participating terminal 42053
distributors charge Ohio's best Rx program participants for each 42054
drug included on the list created under division (A) of this 42055
section. 42056

Sec. 5111.019. (A) The director of job and family services 42057
shall submit to the United States secretary of health and human 42058
services an amendment to the state medicaid plan to make an 42059
individual who meets all of the following requirements eligible 42060
for medicaid for the amount of time provided by division (B) of 42061
this section: 42062

(1) The individual is the parent of a child under nineteen 42063
years of age and resides with the child; 42064

(2) The individual's family income does not exceed ~~one~~ 42065
hundred ninety per cent of the federal poverty guidelines; 42066

(3) The individual is not otherwise eligible for medicaid; 42067

(4) The individual satisfies all relevant requirements 42068
established by rules adopted under division (D) of section 5111.01 42069
of the Revised Code. 42070

(B) An individual is eligible to receive medicaid under this 42071
section for a period that does not exceed two years beginning on 42072
the date on which eligibility is established. 42073

~~(C) If approved by the United States secretary of health and 42074
human services and the director of job and family services, the 42075
director shall implement the medicaid plan amendment submitted 42076
under this section not sooner than July 1, 2000. If a federal 42077
waiver is necessary for the United States secretary to approve the 42078
amendment, the director of job and family services shall submit a 42079
waiver request to the United States secretary not later than 42080
ninety days after the effective date of this section. 42081~~

Sec. 5111.0112. (A) The director of job and family services 42082
shall ~~examine instituting~~ institute a copayment program under 42083
medicaid. ~~As part of the examination, the director shall determine 42084
which~~ Except as provided in division (C) of this section, the 42085
copayment program shall establish a copayment requirement for all 42086
groups of medicaid recipients may be subjected to a copayment 42087
requirement under and medicaid services to the extent permitted by 42088
federal statutes and regulations. If, on completion of the 42089
examination, the director determines that it is feasible to 42090
institute such a copayment program, the director may seek approval 42091
from the United States secretary of health and human services to 42092
institute the copayment program. If necessary, the director may 42093
seek approval by applying for a waiver of federal statutes and 42094
regulations. If such approval is obtained, the The amount of the 42095
copayments shall be the maximum amount permitted by 42 C.F.R. 42096
447.54 or a regulation that replaces it. The director shall adopt 42097

rules ~~in accordance with Chapter 119.~~ under section 5111.02 of the 42098
Revised Code governing the copayment program. 42099

(B) The copayment program shall, to the extent permitted by 42100
federal law, provide for all of the following with regard to any 42101
providers participating in the medicaid program: 42102

(1) No provider shall refuse to provide a service to a 42103
medicaid recipient who is unable to pay a required copayment for 42104
the service. 42105

(2) Division (B)(1) of this section shall not be considered 42106
to do either of the following with regard to a medicaid recipient 42107
who is unable to pay a required copayment: 42108

(a) Relieve the medicaid recipient from the obligation to pay 42109
a copayment; 42110

(b) Prohibit the provider from attempting to collect an 42111
unpaid copayment. 42112

(3) No provider shall waive a medicaid recipient's obligation 42113
to pay the provider a copayment. 42114

(4) No provider or drug manufacturer, including the 42115
manufacturer's representative, employee, independent contractor, 42116
or agent, shall pay any copayment on behalf of a medicaid 42117
recipient. 42118

(5) If it is the routine business practice of the provider to 42119
refuse service to any individual who owes an outstanding debt to 42120
the provider, the provider may consider an unpaid copayment 42121
imposed by the copayment program as an outstanding debt. If the 42122
provider intends to refuse service to a medicaid recipient who 42123
owes the provider an outstanding debt, the provider shall notify 42124
the individual of the provider's intent to refuse services. 42125

(C) The director shall exclude generic drugs from the 42126
copayment program instituted under this section. 42127

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:

(1) Is ineligible to participate in Ohio works first solely as a result of increased income due to employment;

(2) Is not covered by, and does not have access to, medical insurance coverage through the employer with benefits comparable to those provided under this section, as determined in accordance with rules adopted by the director of job and family services under division (B) of this section;

(3) Meets any other requirement established by rule adopted under division (B) of this section.

(B) The director of job and family services shall adopt such rules under Chapter 119. of the Revised Code as are necessary to implement and administer the medical assistance program under this section.

(C) A person seeking to participate in a program of medical assistance under this section shall apply to the county department of job and family services in the county in which the applicant resides. The application shall be made on a form prescribed by the department of job and family services and furnished by the county department.

(D) If the county department of job and family services determines that a person is eligible to receive medical assistance

under this section, the department shall provide assistance, to 42158
the same extent and in the same manner as medical assistance is 42159
provided to a person eligible for medical assistance pursuant to 42160
division (A)(1)(a) of section 5111.01 of the Revised Code, for no 42161
longer than twelve months, beginning the month after the date the 42162
participant's eligibility for Ohio works first is terminated. 42163

Sec. 5111.02. (A) As used in this chapter, "state medicaid 42164
plan service" means a service covered by the medicaid program 42165
pursuant to the state medicaid plan, or an amendment to the plan, 42166
approved by the United States secretary of health and human 42167
services. "State medicaid plan service" does not include either of 42168
the following because they are not included in the state medicaid 42169
plan or an amendment to the plan: 42170

(1) Services provided under the care management system 42171
established under section 5111.16 of the Revised Code; 42172

(2) Services provided under a medicaid waiver component as 42173
defined in section 5111.85 of the Revised Code. 42174

(B) The director of job and family services shall adopt, and 42175
may amend or rescind, rules under Chapter 119. of the Revised Code 42176
establishing the amount, duration, and scope of state medicaid 42177
plan services. The rules shall be consistent with federal and 42178
state law and the state medicaid plan, and amendments to the plan, 42179
approved by the United States secretary of health and human 42180
services. The rules may be different for different state medicaid 42181
plan services. The rules shall establish all of the following: 42182

(1) The conditions under which the medicaid program shall 42183
cover and reimburse state medicaid plan services; 42184

(2) The method of reimbursement applicable to each state 42185
medicaid plan service; 42186

(3) The amount of reimbursement or, in lieu of amounts, 42187

<u>methods by which amounts are to be determined for each state</u>	42188
<u>medicaid plan service;</u>	42189
<u>(4) Procedures for enforcing the rules adopted under this</u>	42190
<u>section that provide due process protections, including procedures</u>	42191
<u>for corrective action plans for, and imposing financial and</u>	42192
<u>administrative sanctions on, persons and government entities that</u>	42193
<u>violate the rules.</u>	42194
Sec. 5111.02 <u>5111.021</u>. (A) Under the medical assistance	42195
<u>medicaid</u> program:	42196
(1) <u>(A)</u> Except as otherwise permitted by federal statute or	42197
regulation and at the department's discretion, reimbursement by	42198
the department of job and family services to a medical provider	42199
for any medical service rendered under the program shall not	42200
exceed the authorized reimbursement level for the same service	42201
under the medicare program established under Title XVIII of the	42202
"Social Security Act," 49 <u>79</u> Stat. 620 <u>286</u> (1935 <u>1965</u>), 42	42203
U.S.C.A. 301 <u>1395</u> , as amended.	42204
(2) <u>(B)</u> Reimbursement for freestanding medical laboratory	42205
charges shall not exceed the customary and usual fee for	42206
laboratory profiles.	42207
(3) <u>(C)</u> The department may deduct from payments for services	42208
rendered by a medicaid provider under the medical assistance	42209
<u>medicaid</u> program any amounts the provider owes the state as the	42210
result of incorrect medical assistance <u>medicaid</u> payments the	42211
department has made to the provider.	42212
(4) <u>(D)</u> The department may conduct final fiscal audits in	42213
accordance with the applicable requirements set forth in federal	42214
laws and regulations and determine any amounts the provider may	42215
owe the state. When conducting final fiscal audits, the department	42216
shall consider generally accepted auditing standards, which	42217

include the use of statistical sampling. 42218

~~(5)(E)~~ The number of days of inpatient hospital care for 42219
which reimbursement is made on behalf of a medicaid recipient of 42220
~~medical assistance~~ to a hospital that is not paid under a 42221
diagnostic-related-group prospective payment system shall not 42222
exceed thirty days during a period beginning on the day of the 42223
recipient's admission to the hospital and ending sixty days after 42224
the termination of that hospital stay, except that the department 42225
may make exceptions to this limitation. The limitation does not 42226
apply to children participating in the program for medically 42227
handicapped children established under section 3701.023 of the 42228
Revised Code. 42229

~~(B)~~ The director of job and family services may adopt, amend, 42230
~~or rescind rules under Chapter 119. of the Revised Code~~ 42231
~~establishing the amount, duration, and scope of medical services~~ 42232
~~to be included in the medical assistance program. Such rules shall~~ 42233
~~establish the conditions under which services are covered and~~ 42234
~~reimbursed, the method of reimbursement applicable to each covered~~ 42235
~~service, and the amount of reimbursement or, in lieu of such~~ 42236
~~amounts, methods by which such amounts are to be determined for~~ 42237
~~each covered service. Any rules that pertain to nursing facilities~~ 42238
~~or intermediate care facilities for the mentally retarded shall be~~ 42239
~~consistent with sections 5111.20 to 5111.33 of the Revised Code.~~ 42240

~~(C)(F)~~ The division of any reimbursement between a 42241
collaborating physician or podiatrist and a clinical nurse 42242
specialist, certified nurse-midwife, or certified nurse 42243
practitioner for services performed by the nurse shall be 42244
determined and agreed on by the nurse and collaborating physician 42245
or podiatrist. In no case shall reimbursement exceed the payment 42246
that the physician or podiatrist would have received had the 42247
physician or podiatrist provided the entire service. 42248

Sec. ~~5111.021~~ 5111.022. Under the ~~medical assistance~~ medicaid 42249
program, any amount determined to be owed the state by a final 42250
fiscal audit conducted pursuant to division ~~(A)(4)(D)~~ of section 42251
~~5111.02~~ 5111.021 of the Revised Code, upon the issuance of an 42252
adjudication order pursuant to Chapter 119. of the Revised Code 42253
that contains a finding that there is a preponderance of the 42254
evidence that the provider will liquidate assets or file 42255
bankruptcy in order to prevent payment of the amount determined to 42256
be owed the state, becomes a lien upon the real and personal 42257
property of the provider. Upon failure of the provider to pay the 42258
amount to the state, the director of job and family services shall 42259
file notice of the lien, for which there shall be no charge, in 42260
the office of the county recorder of the county in which it is 42261
ascertained that the provider owns real or personal property. The 42262
director shall notify the provider by mail of the lien, but 42263
absence of proof that the notice was sent does not affect the 42264
validity of the lien. The lien is not valid as against the claim 42265
of any mortgagee, pledgee, purchaser, judgment creditor, or other 42266
lienholder of record at the time the notice is filed. 42267

If the provider acquires real or personal property after 42268
notice of the lien is filed, the lien shall not be valid as 42269
against the claim of any mortgagee, pledgee, subsequent bona fide 42270
purchaser for value, judgment creditor, or other lienholder of 42271
record to such after-acquired property unless the notice of lien 42272
is refiled after the property is acquired by the provider and 42273
before the competing lien attaches to the after-acquired property 42274
or before the conveyance to the subsequent bona fide purchaser for 42275
value. 42276

When the amount has been paid, the provider may record with 42277
the recorder notice of the payment. For recording such notice of 42278
payment, the recorder shall charge and receive from the provider a 42279

base fee of one dollar for services and a housing trust fund fee 42280
of one dollar pursuant to section 317.36 of the Revised Code. 42281

In the event of a distribution of a provider's assets 42282
pursuant to an order of any court under the law of this state 42283
including any receivership, assignment for benefit of creditors, 42284
adjudicated insolvency, or similar proceedings, amounts then or 42285
thereafter due the state under this chapter have the same priority 42286
as provided by law for the payment of taxes due the state and 42287
shall be paid out of the receivership trust fund or other such 42288
trust fund in the same manner as provided for claims for unpaid 42289
taxes due the state. 42290

If the attorney general finds after investigation that any 42291
amount due the state under this chapter is uncollectable, in whole 42292
or in part, the attorney general shall recommend to the director 42293
the cancellation of all or part of the claim. The director may 42294
thereupon effect the cancellation. 42295

Sec. ~~5111.022~~ 5111.023. (A) As used in this section: 42296

(1) "Community mental health facility" means a community 42297
mental health facility that has a quality assurance program 42298
accredited by the joint commission on accreditation of healthcare 42299
organizations or is certified by the department of mental health 42300
or department of job and family services. 42301

(2) "Mental health professional" means a person qualified to 42302
work with mentally ill persons under the standards established by 42303
the director of mental health pursuant to section 5119.611 of the 42304
Revised Code. 42305

(B) The state medicaid plan shall include provision of the 42306
following mental health services when provided by community mental 42307
health facilities: 42308

(1) Outpatient mental health services, including, but not 42309

limited to, preventive, diagnostic, therapeutic, rehabilitative,
and palliative interventions rendered to individuals in an
individual or group setting by a mental health professional in
accordance with a plan of treatment appropriately established,
monitored, and reviewed;

(2) Partial-hospitalization mental health services of three
to fourteen hours per service day, rendered by persons directly
supervised by a mental health professional;

(3) Unscheduled, emergency mental health services of a kind
ordinarily provided to persons in crisis when rendered by persons
supervised by a mental health professional;

(4) Subject to receipt of federal approval, assertive
community treatment and intensive home-based mental health
services.

(C) The comprehensive annual plan shall certify the
availability of sufficient unencumbered community mental health
state subsidy and local funds to match federal medicaid
reimbursement funds earned by community mental health facilities.

(D) The department of job and family services shall enter
into a separate contract with the department of mental health
under section 5111.91 of the Revised Code with regard to the
component of the medicaid program provided for by this section.

(E) Not later than July 21, 2004, the department of job and
family services shall request federal approval to provide
assertive community treatment and intensive home-based mental
health services under medicaid pursuant to this section.

(F) On receipt of federal approval sought under division (E)
of this section, the director of job and family services shall
adopt rules in accordance with Chapter 119. of the Revised Code
for assertive community treatment and intensive home-based mental

health services provided under medicaid pursuant to this section. 42340
The director shall consult with the department of mental health in 42341
adopting the rules. 42342

Sec. 5111.025. (A) In rules adopted under section 5111.02 of 42343
the Revised Code, the director of job and family services shall 42344
modify the manner or establish a new manner in which the following 42345
are paid under medicaid: 42346

(1) Community mental health facilities for providing mental 42347
health services included in the state medicaid plan pursuant to 42348
section ~~5111.022~~ 5111.023 of the Revised Code; 42349

(2) Providers of alcohol and drug addiction services for 42350
providing alcohol and drug addiction services included in the 42351
medicaid program pursuant to rules adopted under section 5111.02 42352
of the Revised Code. 42353

(B) The director's authority to modify the manner, or to 42354
establish a new manner, for medicaid to pay for the services 42355
specified in division (A) of this section is not limited by any 42356
rules adopted under section 5111.02 or 5119.61 of the Revised Code 42357
that are in effect on ~~the effective date of this section~~ June 26, 42358
2003, and govern the way medicaid pays for those services. This is 42359
the case regardless of what state agency adopted the rules. 42360

Sec. 5111.026. The court of common pleas of Franklin county 42361
shall have exclusive, original jurisdiction over any action or 42362
proceeding for declaratory or injunctive relief regarding payments 42363
to providers of goods and services under the Medicaid program that 42364
are not subject to the provisions of section 5111.06 of the 42365
Revised Code. 42366

Sec. 5111.027. If the medicaid program provides prescription 42367
drug services to medicaid recipients, the program shall not 42368

provide reimbursement for prescription drugs for treatment of 42369
erectile dysfunction. 42370

Sec. 5111.042. The departments of mental retardation and 42371
developmental disabilities and job and family services may 42372
approve, reduce, deny, or terminate a service included in the 42373
individualized service plan developed for a medicaid recipient 42374
with mental retardation or other developmental disability who is 42375
eligible for medicaid case management services. ~~The departments~~ 42376
~~shall consider the recommendations a county board of mental~~ 42377
~~retardation and developmental disabilities makes under division~~ 42378
~~(B)(1) of section 5126.055 of the Revised Code.~~ If either 42379
department approves, reduces, denies, or terminates a service, 42380
that department shall timely notify the medicaid recipient that 42381
the recipient may request a hearing under section 5101.35 of the 42382
Revised Code. 42383

Sec. 5111.06. (A)(1) As used in this section and in sections 42384
5111.061 and 5111.062 of the Revised Code: 42385

(a) "Provider" means any person, institution, or entity that 42386
furnishes medicaid services under a provider agreement with the 42387
department of job and family services pursuant to Title XIX of the 42388
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 42389
amended. 42390

(b) "Party" has the same meaning as in division (G) of 42391
section 119.01 of the Revised Code. 42392

(c) "Adjudication" has the same meaning as in division (D) of 42393
section 119.01 of the Revised Code. 42394

(2) This section does not apply to any action taken by the 42395
department of job and family services under sections 5111.35 to 42396
5111.62 of the Revised Code. 42397

(B) Except as provided in division (D) of this section and 42398
section 5111.914 of the Revised Code, the department shall do 42399
either of the following by issuing an order pursuant to an 42400
adjudication conducted in accordance with Chapter 119. of the 42401
Revised Code: 42402

(1) Enter into or refuse to enter into a provider agreement 42403
with a provider, or suspend, terminate, renew, or refuse to renew 42404
an existing provider agreement with a provider; 42405

(2) Take any action based upon a final fiscal audit of a 42406
provider. 42407

(C) Any party who is adversely affected by the issuance of an 42408
adjudication order under division (B) of this section may appeal 42409
to the court of common pleas of Franklin county in accordance with 42410
section 119.12 of the Revised Code. 42411

(D) The department is not required to comply with division 42412
(B)(1) of this section whenever any of the following occur: 42413

(1) The terms of a provider agreement require the provider to 42414
have a license, permit, or certificate issued by an official, 42415
board, commission, department, division, bureau, or other agency 42416
of state government other than the department of job and family 42417
services, and the license, permit, or certificate has been denied 42418
or revoked. 42419

(2) The provider agreement is denied, terminated, or not 42420
renewed pursuant to division (C) or (E) of section 5111.03 of the 42421
Revised Code; 42422

(3) The provider agreement is denied, terminated, or not 42423
renewed due to the provider's termination, suspension, or 42424
exclusion from the medicare program established under Title XVIII 42425
of the "Social Security Act," and the termination, suspension, or 42426
exclusion is binding on the provider's participation in the 42427

medicaid program; 42428

(4) The provider agreement is denied, terminated, or not 42429
renewed due to the provider's pleading guilty to or being 42430
convicted of a criminal activity materially related to either the 42431
medicare or medicaid program; 42432

(5) The provider agreement is denied, terminated, or 42433
suspended as a result of action by the United States department of 42434
health and human services and that action is binding on the 42435
provider's participation in the medicaid program; 42436

(6) The provider agreement is terminated or not renewed 42437
because the provider has not billed or otherwise submitted a 42438
medicaid claim to the department for two years or longer, and the 42439
department has determined that the provider has moved from the 42440
address on record with the department without leaving an active 42441
forwarding address with the department. 42442

In the case of a provider described in division (D)(6) of 42443
this section, the department may terminate or not renew the 42444
provider agreement by sending a notice explaining the department's 42445
proposed action to the address on record with the department. The 42446
notice may be sent by regular mail. 42447

(E) The department may withhold payments for services 42448
rendered by a medicaid provider under the medical assistance 42449
program during the pendency of proceedings initiated under 42450
division (B)(1) of this section. If the proceedings are initiated 42451
under division (B)(2) of this section, the department may withhold 42452
payments only to the extent that they equal amounts determined in 42453
a final fiscal audit as being due the state. This division does 42454
not apply if the department fails to comply with section 119.07 of 42455
the Revised Code, requests a continuance of the hearing, or does 42456
not issue a decision within thirty days after the hearing is 42457
completed. This division does not apply to nursing facilities and 42458

intermediate care facilities for the mentally retarded as defined 42459
in section 5111.20 of the Revised Code. 42460

Sec. 5111.061. (A) The department of job and family services 42461
may recover, at any time, a medicaid payment or portion of a 42462
payment made to a provider to which the provider is not entitled. 42463
Among the overpayments that may be recovered under this section 42464
are the following: 42465

(1) Payment for a service, or a day of service, not rendered; 42466

(2) Payment for a day of service at a full per diem rate that 42467
should have been paid at a percentage of the full per diem rate; 42468

(3) Payment of a service, or day of service, that was paid 42469
by, or partially paid by, a third-party payer, as defined in 42470
section 3901.38 of the Revised Code, and the payment or partial 42471
payment was not offset against the amount paid by the medicaid 42472
program to reduce or eliminate the amount that was paid by the 42473
medicaid program; 42474

(4) Payment when a medicaid recipient's responsibility for 42475
payment was understated and resulted in an overpayment to the 42476
provider. 42477

(B) The department is authorized to recover overpayments 42478
under this section prior to or after any of the following: 42479

(1) Adjudication of a final fiscal audit that section 5111.06 42480
of the Revised Code requires to be conducted in accordance with 42481
Chapter 119. of the Revised Code; 42482

(2) Adjudication of a finding under any other provision of 42483
this chapter or the rules adopted under it; 42484

(3) Expiration of the time to issue a final fiscal audit that 42485
section 5111.06 of the Revised Code requires to be conducted in 42486
accordance with Chapter 119. of the Revised Code; 42487

(4) Expiration of the time to issue a finding under any other provision of this chapter or the rules adopted under it. 42488
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(C)(1) Subject to division (C)(2) of this section, the recovery of an overpayment under this section does not preclude the department from subsequently doing the following: 42490
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42492

(a) Issuing a final fiscal audit in accordance with Chapter 119. of the Revised Code, as required under section 5111.06 of the Revised Code; 42493
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(b) Issuing a finding under any other provision of this chapter or the rules adopted under it. 42496
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(2) A final fiscal audit or finding issued subsequent to the recovery of an overpayment under this section shall be reduced by the amount of the prior recovery, as appropriate. 42498
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(D) Nothing in this section limits the department's authority to recover overpayments pursuant to any other provision of the Revised Code. 42501
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Sec. 5111.062. In any action taken by the department of job and family services under section 5111.06 or 5111.061 of the Revised Code or any other provision of this chapter that requires the department to give notice of an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, if the department gives notice of the opportunity for a hearing but the provider or other entity subject to the notice does not request a hearing or timely request a hearing in accordance with section 119.07 of the Revised Code, the department is not required to hold a hearing. The director of job and family service may proceed by issuing a final adjudication order in accordance with Chapter 119. of the Revised Code. 42504
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Sec. 5111.072. (A) As used in this section: 42516

(1) "Institutionalized medicaid recipient" means a recipient of assistance under this chapter who resides in a nursing facility or intermediate care facility for the mentally retarded. 42517
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(2) "Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code. 42520
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(3) "Long-term care pharmacy management incentive payment program" means the medicaid program component administered by the department of job and family services from July 1, 2002, to June 30, 2004, under rule 5101:3-9-08 of the Administrative Code. 42523
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(B) To the extent permitted by federal law, the department of job and family services shall provide for the resumed operation of the long-term care pharmacy management incentive payment program on and after July 1, 2005. In administering the program, the department is subject to all of the following: 42527
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(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. 42532
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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. 42537
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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. 42543
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(4) The department may contract with a pharmacy benefits 42546

manager or any other entity to perform all or part of the 42547
department's duties regarding the program, other than the duties 42548
specified in division (B)(1) of this section. 42549

(5) The department may adopt any rules it considers necessary 42550
to implement and administer the program. The rules shall be 42551
adopted in accordance with Chapter 119. of the Revised Code. 42552

Sec. 5111.082. The director of job and family services, in 42553
rules adopted under section 5111.02 of the Revised Code, may 42554
establish and implement a supplemental drug rebate program under 42555
which drug manufacturers may be required to provide the department 42556
of job and family services a supplemental rebate as a condition of 42557
having the drug manufacturers' drug products covered by the 42558
medicaid program without prior approval. If necessary, the 42559
director may apply to the United States secretary of health and 42560
human services for a waiver of federal statutes and regulations to 42561
establish the supplemental drug rebate program. 42562

If the director establishes a supplemental drug rebate 42563
program, the director shall consult with drug manufacturers 42564
regarding the establishment and implementation of the program. 42565

~~If the director establishes a supplemental drug rebate~~ 42566
~~program, the director shall exempt from the program all of a drug~~ 42567
~~manufacturer's drug products that have been approved by the United~~ 42568
~~States food and drug administration for the treatment of either of~~ 42569
~~the following:~~ 42570

~~(A) Mental illness, as defined in section 5122.01 of the~~ 42571
~~Revised Code, including schizophrenia, major depressive disorder,~~ 42572
~~and bipolar disorder;~~ 42573

~~(B) HIV or AIDS, both as defined in section 3701.24 of the~~ 42574
~~Revised Code.~~ 42575

<u>Sec. 5111.083. (A) As used in this section:</u>	42576
<u>(1) "Control number" means the number assigned to a</u>	42577
<u>prescription drug by the drug's manufacturer.</u>	42578
<u>(2) "Maximum allowable cost" means the price established for</u>	42579
<u>a prescription drug pursuant to the federal upper limit drug</u>	42580
<u>listing published by the United States department of health and</u>	42581
<u>human services in part six, addendum A of the "State Medicaid</u>	42582
<u>Manual."</u>	42583
<u>(B) The director of job and family services shall establish a</u>	42584
<u>program to do both of the following on a daily basis:</u>	42585
<u>(1) Update the maximum allowable cost for each generic</u>	42586
<u>prescription drug available under the medicaid program;</u>	42587
<u>(2) Update the control number for each generic prescription</u>	42588
<u>drug available under the medicaid program.</u>	42589
<u>(C) The director may adopt rules in accordance with Chapter</u>	42590
<u>119. of the Revised Code to implement this section.</u>	42591
<u>Sec. 5111.10. The director of job and family services may</u>	42592
<u>conduct reviews of the medicaid program. The reviews may include</u>	42593
<u>physical inspections of records and sites where medicaid-funded</u>	42594
<u>services are provided and interviews of providers and recipients</u>	42595
<u>of the services. If the director determines pursuant to a review</u>	42596
<u>that a person or government entity has violated a rule governing</u>	42597
<u>the medicaid program, the director may establish a corrective</u>	42598
<u>action plan for the violator and impose fiscal, administrative, or</u>	42599
<u>both types of sanctions on the violator in accordance with rules</u>	42600
<u>governing the medicaid program. Such action to be taken against a</u>	42601
<u>responsible entity, as defined in section 5101.24 of the Revised</u>	42602
<u>Code, shall be taken in accordance with that section.</u>	42603

Sec. 5111.11. (A) As used in this section, ~~"estate" means all~~ and section 5111.111 of the Revised Code: 42604
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(1) "Estate" includes both of the following: 42606

(a) All real and personal property and other assets to be administered under Title XXI of the Revised Code and property that would be administered under that title if not for section 2113.03 or 2113.031 of the Revised Code; 42607
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(b) Any other real and personal property and other assets in which an individual had any legal title or interest at the time of death (to the extent of the interest), including assets conveyed to a survivor, heir, or assign of the individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement. 42611
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(2) "Institution" means a nursing facility, intermediate care facility for the mentally retarded, or a medical institution. 42617
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(3) "Institutionalized individual" means an individual to whom all of the following apply: 42619
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(a) Is an inpatient in an institution; 42621

(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; 42622
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(c) Cannot reasonably be expected to be discharged from the institution and return home. 42627
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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. 42629
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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 42632
42633

or other asset may pass by survivorship or other operation of law 42634
due to the death of the decedent or terminate by reason of the 42635
decedent's death. 42636

~~(B) For the purpose of recovering the cost of services~~ 42637
~~correctly paid under the medical assistance program to a recipient~~ 42638
~~age fifty five or older, the~~ The department of job and family 42639
services shall institute an estate recovery program ~~against the~~ 42640
~~property and estates of medical assistance recipients to recover~~ 42641
~~medical assistance correctly paid on their behalf to the extent~~ 42642
~~that federal law and regulations permit the implementation of a~~ 42643
~~program of that nature. The department shall seek to recover~~ 42644
~~medical assistance correctly paid only after the recipient and the~~ 42645
~~recipient's surviving spouse, if any, have died and only at a time~~ 42646
~~when the recipient has no surviving child who is under age~~ 42647
~~twenty one or blind or permanently and totally disabled.~~ 42648

~~The department may enter into a contract with any person~~ 42649
~~under which the person administers the estate recovery program on~~ 42650
~~behalf of the department or performs any of the functions required~~ 42651
~~to carry out the program. The contract may provide for the person~~ 42652
~~to be compensated from the property recovered from the estates of~~ 42653
~~medical assistance recipients or may provide for another manner of~~ 42654
~~compensation agreed to by the person and the department.~~ 42655
~~Regardless of whether it is administered by the department or a~~ 42656
~~person under contract with the department, the program shall be~~ 42657
~~administered in accordance with applicable requirements of federal~~ 42658
~~law and regulations and state law and rules.~~ 42659

~~(C)~~ under which the department shall, except as provided in 42660
divisions (C) and (D) of this section, do both of the following: 42661

(1) For the costs of services the medicaid program correctly 42662
pays on behalf of an institutionalized individual of any age, seek 42663
adjustment or recovery from the individual's estate or on the sale 42664

of property of the individual or spouse that is subject to a lien 42665
imposed under section 5111.111 of the Revised Code; 42666

(2) For the costs of services the medicaid program correctly 42667
pays on behalf of an individual fifty-five years of age or older 42668
who is not an institutionalized individual, seek adjustment or 42669
recovery from the individual's estate. 42670

(C)(1) No adjustment or recovery may be made under division 42671
(B)(1) of this section from an institutionalized individual's 42672
estate or on the sale of property of an institutionalized 42673
individual that is subject to a lien imposed under section 42674
5111.111 of the Revised Code or under division (B)(2) of this 42675
section from an individual's estate while either of the following 42676
are alive: 42677

(a) The spouse of the institutionalized individual or 42678
individual; 42679

(b) The son or daughter of an institutionalized individual or 42680
individual if the son or daughter is under age twenty-one or, 42681
under 42 U.S.C. 1382c, is considered blind or disabled. 42682

(2) No adjustment or recovery may be made under division 42683
(B)(1) of this section from an institutionalized individual's home 42684
that is subject to a lien imposed under section 5111.111 of the 42685
Revised Code while either of the following lawfully reside in the 42686
home: 42687

(a) The institutionalized individual's sibling who resided in 42688
the home for at least one year immediately before the date of the 42689
institutionalized individual's admission to the institution and on 42690
a continuous basis since that time; 42691

(b) The institutionalized individual's son or daughter who 42692
provided care to the institutionalized individual that delayed the 42693
institutionalized individual's institutionalization and resided in 42694

the home for at least two years immediately before the date of the 42695
institutionalized individual's admission to the institution and on 42696
a continuous basis since that time. 42697

(D) The department ~~may~~ shall waive seeking an adjustment or 42698
recovery of ~~medical assistance correctly paid otherwise required~~ 42699
by this section if the director of job and family services 42700
determines, on the basis of criteria established by the United 42701
States secretary of health and human services under 42 U.S.C. 42702
1396p (b)(3), as amended, that adjustment or recovery would work 42703
an undue hardship. The director, in accordance with Chapter 119. 42704
of the Revised Code, shall adopt rules establishing procedures for 42705
waiver of adjustment or recovery due to an undue hardship, which 42706
shall meet the standards specified by the United States secretary 42707
of health and human services under 42 U.S.C. 1396p(b)(3), as 42708
amended. 42709

~~(D) Any action that may be taken by the department under~~ 42710
~~section 5111.111 of the Revised Code may be taken by a person~~ 42711
~~administering the program, or performing actions specified in that~~ 42712
~~section, pursuant to a contract with the department.~~ 42713

(E) For the purpose of determining whether an individual 42714
meets the definition of "institutionalized individual" established 42715
for this section, a rebuttable presumption exists that the 42716
individual cannot reasonably be expected to be discharged from an 42717
institution and return home if either of the following is the 42718
case: 42719

(1) The individual declares that he or she does not intend to 42720
return home; 42721

(2) The individual has been an inpatient in an institution 42722
for at least six months without a discharge plan. 42723

Sec. 5111.111. ~~As used in this section, "home and~~ 42724

~~community based services" means services provided pursuant to a~~ 42725
~~waiver under section 1915 of the "Social Security Act," 49 Stat.~~ 42726
~~620 (1935), 42 U.S.C.A. 1396n, as amended.~~ 42727

The (A) Except as provided in division (B) of this section 42728
and section 5111.12 of the Revised Code, no lien may be imposed 42729
against the property of an individual before the individual's 42730
death on account of medicaid paid or to be paid on the 42731
individual's behalf. 42732

(B) Except as provided in division (C) of this section, the 42733
department of job and family services may ~~place~~ impose a lien 42734
against the real property of a ~~medical assistance~~ medicaid 42735
recipient ~~or~~ who is an institutionalized individual and against 42736
the real property of the recipient's spouse, other than a 42737
~~recipient or spouse of a recipient of home and community based~~ 42738
~~services, that the department may recover as part of the program~~ 42739
~~instituted under section 5111.11 of the Revised Code~~ including any 42740
real property that is jointly held by the recipient and spouse. 42741
~~When medical assistance is paid on behalf of any person in~~ 42742
~~circumstances under which federal law and regulations and this~~ 42743
~~section permit the imposition of a lien, the~~ The lien may be 42744
imposed on account of medicaid paid or to be paid on the 42745
recipient's behalf. 42746

(C) No lien may be imposed under division (B) of this section 42747
against the home of a medicaid recipient if any of the following 42748
lawfully resides in the home: 42749

(1) The recipient's spouse; 42750

(2) The recipient's son or daughter who is under twenty-one 42751
years of age or, under 42 U.S.C. 1382c, considered to be blind or 42752
disabled; 42753

(3) The recipient's sibling who has an equity interest in the 42754
home and resided in the home for at least one year immediately 42755

before the date of the recipient's admission to the institution. 42756

(D) The director of job and family services or a person 42757
designated by the director ~~may~~ shall sign a certificate to ~~the~~ 42758
~~effect~~ effectuate a lien required to be imposed under this 42759
section. The county department of job and family services shall 42760
file for recording and indexing the certificate, or a certified 42761
copy, in the real estate mortgage records in the office of the 42762
county recorder in every county in which real property of the 42763
recipient or spouse is situated. From the time of filing the 42764
certificate in the office of the county recorder, the lien 42765
attaches to all real property of the recipient or spouse described 42766
~~therein in the certificate~~ for all amounts ~~of aid which are paid~~ 42767
~~or which thereafter are paid,~~ for which adjustment or recovery may 42768
be made under section 5111.11 of the Revised Code and, except as 42769
provided in division (E) of this section, shall remain a lien 42770
until satisfied. 42771

Upon filing the certificate in the office of the recorder, 42772
all persons are charged with notice of the lien and the rights of 42773
the department of job and family services thereunder. 42774

The county recorder shall keep a record of every certificate 42775
filed showing its date, the time of filing, the name and residence 42776
of the recipient or spouse, and any release, waivers, or 42777
satisfaction of the lien. 42778

The priority of the lien shall be established in accordance 42779
with state and federal law. 42780

The department may waive the priority of its lien to provide 42781
for the costs of the last illness as determined by the department, 42782
administration, attorney fees, administrator fees, a sum for the 42783
payment of the costs of burial, which shall be computed by 42784
deducting from five hundred dollars whatever amount is available 42785
for the same purpose from all other sources, and a similar sum for 42786

the spouse of the decedent. 42787

(E) A lien imposed with respect to a medicaid recipient under 42788
this section shall dissolve on the recipient's discharge from the 42789
institution and return home. 42790

Sec. 5111.112. The department of job and family services may 42791
enter into a contract with any person or government entity under 42792
which the person or government entity administers the estate 42793
recovery program instituted under section 5111.11 of the Revised 42794
Code on behalf of the department or performs any of the functions 42795
required to carry out the program. The contract may provide for 42796
the person or government entity to be compensated from the 42797
property recovered under the program or may provide for another 42798
manner of compensation agreed to by the person or government 42799
entity and the department. Regardless of whether it is 42800
administered by the department or a person or government entity 42801
under contract with the department, the program shall be 42802
administered in accordance with applicable requirements of federal 42803
law and regulations and state law and rules. 42804

Any action that may be taken by the department under section 42805
5111.111 of the Revised Code may be taken by a person or 42806
government entity administering the program, or performing actions 42807
specified in that section, pursuant to a contract with the 42808
department. 42809

Sec. 5111.112 5111.113. (A) As used in this section: 42810

(1) "Adult care facility" has the same meaning as in section 42811
3722.01 of the Revised Code. 42812

(2) "Commissioner" means a person appointed by a probate 42813
court under division (B) of section 2113.03 of the Revised Code to 42814
act as a commissioner. 42815

(3) "Home" has the same meaning as in section 3721.10 of the Revised Code. 42816
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(4) "Personal needs allowance account" means an account or petty cash fund that holds the money of a resident of an adult care facility or home and that the facility or home manages for the resident. 42818
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(B) Except as provided in divisions (C) and (D) of this section, the owner or operator of an adult care facility or home shall transfer to the department of job and family services the money in the personal needs allowance account of a resident of the facility or home who was a recipient of the medical assistance program no earlier than sixty days but not later than ninety days after the resident dies. The adult care facility or home shall transfer the money even though the owner or operator of the facility or home has not been issued letters testamentary or letters of administration concerning the resident's estate. 42822
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(C) If funeral or burial expenses for a resident of an adult care facility or home who has died have not been paid and the only resource the resident had that could be used to pay for the expenses is the money in the resident's personal needs allowance account, or all other resources of the resident are inadequate to pay the full cost of the expenses, the money in the resident's personal needs allowance account shall be used to pay for the expenses rather than being transferred to the department of job and family services pursuant to division (B) of this section. 42832
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(D) If, not later than sixty days after a resident of an adult care facility or home dies, letters testamentary or letters of administration are issued, or an application for release from administration is filed under section 2113.03 of the Revised Code, concerning the resident's estate, the owner or operator of the facility or home shall transfer the money in the resident's 42841
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personal needs allowance account to the administrator, executor, 42847
commissioner, or person who filed the application for release from 42848
administration. 42849

(E) The transfer or use of money in a resident's personal 42850
needs allowance account in accordance with division (B), (C), or 42851
(D) of this section discharges and releases the adult care 42852
facility or home, and the owner or operator of the facility or 42853
home, from any claim for the money from any source. 42854

(F) If, sixty-one or more days after a resident of an adult 42855
care facility or home dies, letters testamentary or letters of 42856
administration are issued, or an application for release from 42857
administration under section 2113.03 of the Revised Code is filed, 42858
concerning the resident's estate, the department of job and family 42859
services shall transfer the funds to the administrator, executor, 42860
commissioner, or person who filed the application, unless the 42861
department is entitled to recover the money under the estate 42862
recovery program instituted under section 5111.11 of the Revised 42863
Code. 42864

Sec. ~~5111.113~~ 5111.114. As used in this section, "nursing 42865
facility" and "intermediate care facility for the ~~mental~~ mentally 42866
retarded" have the same meanings as in section 5111.20 of the 42867
Revised Code. 42868

In determining the amount of income that a recipient of 42869
medical assistance must apply monthly toward payment of the cost 42870
of care in a nursing facility or intermediate care facility for 42871
the mentally retarded, the county department of job and family 42872
services shall deduct from the recipient's monthly income a 42873
monthly personal needs allowance in accordance with section 1902 42874
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 42875
1396a, as amended. 42876

For a resident of a nursing facility, the monthly personal needs allowance shall be not less than forty dollars for an individual resident and not less than eighty dollars for a married couple if both spouses are residents of a nursing facility.

For a resident of an intermediate care facility for the mentally retarded, the monthly personal needs allowance shall be forty dollars unless the resident has earned income, in which case the monthly personal needs allowance shall be determined by the state department of job and family services but shall not exceed one hundred five dollars.

Sec. 5111.16. (A) As part of the medicaid program, the department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system.

(B) The department shall implement the care management system in some or all counties and shall designate the medicaid recipients who are required or permitted to participate in the system. In implementing the care management system and designating participants, all of the following apply:

(1) The department may designate one or more counties as a mandatory managed care enrollment service area where medicaid recipients designated by the department are required to enroll in and obtain health care services through a managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code.

(2) Beginning July 1, 2006, the department shall designate for participation in the care management system all persons who receive medicaid on the basis of being aged, blind, or disabled,

as specified in division (A)(2) of section 5111.01 of the Revised Code, except that the department shall not include the following: 42907
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(a) Persons who are under twenty-one years of age, other than chronically ill children who are included as participants for purposes of the pilot program established under section 5111.161 of the Revised Code; 42909
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(b) Persons who are institutionalized; 42913

(c) Persons who become eligible for medicaid by spending down their income to a level that meets the program's financial eligibility requirements; 42914
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(d) Persons who are dually eligible under the medicaid program and the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended; 42917
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(e) Persons to the extent that they are receiving medicaid services through a medicaid waiver component, as defined in section 5111.85 of the Revised Code. 42921
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(3) In the case of medicaid recipients required under division (B)(2) of this section to be designated as participants in the care management system, the system shall be implemented in all counties and the participants shall be required to enroll in health insuring corporations under contract with the department pursuant to section 5111.17 of the Revised Code. 42924
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(4) Alcohol, drug addiction, and mental health services covered by medicaid pursuant to the option under federal law of covering rehabilitative services shall not be included in any component of the care management system, but recipients of the services may be designated as participants in the system for purposes of obtaining other services covered by medicaid. 42930
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~~(B) Under the care management system~~ (C) Subject to divisions 42936

(B)(3) and (4) of this section, the department may do both of the 42937
following under the care management system: 42938

(1) Require or permit participants in the system to obtain 42939
health care services from providers designated by the department; 42940

(2) ~~require~~ Require or permit participants in the system to 42941
obtain health care services through managed care organizations 42942
under contract with the department pursuant to section 5111.17 of 42943
the Revised Code. 42944

~~(C)~~(D) The director of job and family services may adopt 42945
rules in accordance with Chapter 119. of the Revised Code to 42946
implement this section. 42947

Sec. 5111.161. (A) As used in this section, "chronically ill 42948
child" means an individual who is not more than twenty-one years 42949
of age and meets the conditions specified in division (A)(2) of 42950
section 5111.01 of the Revised Code to be eligible for medicaid on 42951
the basis of being blind or disabled. 42952

(B) The department of job and family services shall develop a 42953
pilot program under which chronically ill children are included 42954
among the medicaid recipients who are required to participate in 42955
the care management system established under section 5111.16 of 42956
the Revised Code. The pilot program shall be implemented not later 42957
than October 1, 2006, or, if by that date the department has not 42958
received any necessary federal approval to implement the program, 42959
as soon as practicable after receiving the approval. The 42960
department shall operate the program until October 1, 2008, except 42961
that the department shall cease operation of the program before 42962
that date if either of the following is the case: 42963

(1) The department determines that requiring chronically ill 42964
children to participate in the care management system is not a 42965
cost-effective means of providing medicaid services; 42966

(2) The combined state and federal cost of the children's care coordination described in division (D) of this section reaches three million dollars. 42967
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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. 42970
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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 establishing a medical home for a chronically ill child, all of the following apply: 42976
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(1) A physician shall serve as the care coordinator for the child. The care coordinator may be engaged in practice as a pediatrician certified in pediatrics by a medical specialty board of the American medical association or American osteopathic association, a pediatric subspecialist, or a provider for the program for medically handicapped children in the department of health. If the physician is in a group practice, any member of the group practice may serve as the child's care coordinator. The duties of the care coordinator may be performed by a person acting under the supervision of the care coordinator. 42984
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(2) The child may receive care from any health care practitioner appropriate to the child's needs, but the care coordinator shall direct and oversee the child's overall care. 42994
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(3) The care coordinator shall establish a relationship of 42997

mutual responsibility with the child's parents or other persons 42998
who are responsible for the child. Under this relationship, the 42999
care coordinator shall commit to developing a long-term disease 43000
prevention strategy and providing disease management and education 43001
services, while the child's parents or other persons who are 43002
responsible for the child shall commit to participating fully in 43003
implementing the child's care management plan. 43004

(4) The medicaid program shall provide reimbursement for the 43005
reasonable and necessary costs of the services associated with 43006
care coordination, including, but not limited to, case management, 43007
care plan oversight, preventive care, health and behavioral care 43008
assessment and intervention, and any service modifier that 43009
reflects the provision of prolonged services or additional care. 43010

(E) The department shall conduct an evaluation of the pilot 43011
program's effectiveness. As part of the evaluation, the department 43012
shall maintain statistics on physician expenditures, hospital 43013
expenditures, preventable hospitalizations, and other matters the 43014
department considers necessary to conduct the evaluation. 43015

(F) The department shall adopt rules in accordance with 43016
Chapter 119. of the Revised Code as necessary to implement this 43017
section. The rules shall specify standards and procedures to be 43018
used in designating the chronically ill children who are required 43019
to participate in the pilot program. 43020

Sec. 5111.176. (A) As used in this section: 43021

(1) "Mandatory managed care enrollment service area" means 43022
the county or counties included in an area designated under 43023
division (B)(1) of section 5111.16 of the Revised Code as an area 43024
where medicaid recipients are required to enroll in and obtain 43025
health care services through a managed care organization. 43026

(2) "Mandatory managed care medicaid recipient" means a 43027

medicaid recipient designated under division (B)(1) of section 43028
5111.16 of the Revised Code as a medicaid recipient required to 43029
enroll in and obtain health care services through a managed care 43030
organization in a mandatory managed care enrollment service area. 43031

(3) "Noncontracting hospital" means a hospital to which all 43032
of the following apply: 43033

(a) The hospital participates in the medicaid program; 43034

(b) The hospital is located in a mandatory managed care 43035
enrollment service area; 43036

(c) The hospital has not entered into a contract with a 43037
managed care organization to provide services to mandatory managed 43038
care medicaid recipients. 43039

(B)(1) Subject to division (B)(2) of this section, a managed 43040
care organization under contract with the department pursuant to 43041
section 5111.17 of the Revised Code to provide or arrange for the 43042
provision of health care services to mandatory managed care 43043
medicaid recipients shall reimburse a noncontracting hospital for 43044
providing services to the recipients according to a reimbursement 43045
rate that is the same as the reimbursement rate used by the 43046
department of job and family services to reimburse the hospital 43047
for providing services to medicaid recipients who are not enrolled 43048
in a managed care organization. 43049

(2) The reimbursement rate established under division (B)(1) 43050
of this section applies only to services authorized by the managed 43051
care organization. The establishment of a reimbursement rate under 43052
that division does not restrict the managed care organization from 43053
entering into a contract with a hospital under which the hospital 43054
is reimbursed at a different rate. 43055

(C) A noncontracting hospital shall do both of the following: 43056

(1) Provide hospital services to mandatory managed care 43057

medicaid recipients when the services have been authorized by the 43058
managed care organization in which the recipients are enrolled; 43059

(2) Accept the reimbursement provided by the managed care 43060
organization under division (B) of this section as payment in full 43061
for services provided in accordance with division (C)(1) of this 43062
section. 43063

(D) The director of job and family services may adopt rules 43064
in accordance with Chapter 119. of the Revised Code to implement 43065
this section. 43066

Sec. 5111.177. (A) As used in this section: 43067

(1) "Medicaid health insuring corporation" means a health 43068
insuring corporation that holds a certificate of authority under 43069
Chapter 1751. of the Revised Code and has entered into a contract 43070
with the department of job and family services pursuant to section 43071
5111.17 of the Revised Code. 43072

(2) "Managed care premium" means any premium payment, 43073
capitation payment, or other payment a medicaid health insuring 43074
corporation receives for providing, or arranging for the provision 43075
of, health care services to its members or enrollees residing in 43076
this state. 43077

(B) Except as provided in division (C) of this section, all 43078
of the following apply: 43079

(1) Each medicaid health insuring corporation shall pay to 43080
the department of job and family services a franchise permit fee 43081
for each calendar quarter occurring between January 1, 2006, and 43082
June 30, 2007. 43083

(2) The fee to be paid is an amount that is equal to a 43084
percentage of the managed care premiums the medicaid health 43085
insuring corporation received in the quarter to which the fee 43086
applies, excluding the amount of any managed care premiums the 43087

corporation returned or refunded to enrollees, members, or premium payers during that quarter. 43088
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(3) The percentage to be used in calculating the fee shall be four and one-half per cent, unless the department adopts rules under division (L) of this section decreasing the percentage below four and one-half per cent or increasing the percentage to not more than six per cent. 43090
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(C) The department shall reduce the franchise permit fee imposed under this section or terminate its collection of the fee if the department determines either of the following: 43095
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(1) That the reduction or termination is required to comply with federal statutes or regulations; 43098
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(2) That the fee does not qualify as a state share of medicaid expenditures eligible for federal financial participation. 43100
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(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. 43103
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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. 43111
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(F)(1) A medicaid health insuring corporation that does not 43117

<u>pay the franchise permit fee in full by the date the payment is</u>	43118
<u>due is subject to any or all of the following:</u>	43119
<u>(a) A monetary penalty in the amount of five hundred dollars</u>	43120
<u>for each day any part of the fee remains unpaid, except that the</u>	43121
<u>penalty shall not exceed an amount equal to five per cent of the</u>	43122
<u>total fee that was due for the calendar quarter for which the</u>	43123
<u>penalty is being imposed;</u>	43124
<u>(b) Withholdings from future managed care premiums pursuant</u>	43125
<u>to division (G) of this section;</u>	43126
<u>(c) Termination of the corporation's medicaid provider</u>	43127
<u>agreement pursuant to division (H) of this section.</u>	43128
<u>(2) Penalties imposed under division (F)(1)(a) of this</u>	43129
<u>section are in addition to and not in lieu of the franchise permit</u>	43130
<u>fee.</u>	43131
<u>(G) If a medicaid health insuring corporation fails to pay</u>	43132
<u>the full amount of its franchise permit fee when due, or the full</u>	43133
<u>amount of a penalty imposed under division (F)(1)(a) of this</u>	43134
<u>section, the department may withhold an amount equal to the</u>	43135
<u>remaining amount due from any future managed care premiums to be</u>	43136
<u>paid to the corporation under the medicaid program. The department</u>	43137
<u>may withhold amounts under this division without providing notice</u>	43138
<u>to the corporation. The amounts may be withheld until the amount</u>	43139
<u>due has been paid.</u>	43140
<u>(H) The department may commence actions to terminate a</u>	43141
<u>medicaid health insuring corporation's medicaid provider</u>	43142
<u>agreement, and may terminate the agreement subject to division (I)</u>	43143
<u>of this section, if the corporation does any of the following:</u>	43144
<u>(1) Fails to pay its franchise permit fee or fails to pay the</u>	43145
<u>fee promptly;</u>	43146
<u>(2) Fails to pay a penalty imposed under division (F)(1)(a)</u>	43147

of this section or fails to pay the penalty promptly; 43148

(3) Fails to cooperate with an audit conducted under division (E) of this section. 43149
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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: 43151
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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. 43155
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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. 43158
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(J)(1) At the request of a medicaid corporation, the department shall grant the corporation a reconsideration of any issue that arises out of the provisions of this section and is not subject to division (I) of this section. The department's decision at the conclusion of the reconsideration is not subject to appeal under Chapter 119. of the Revised Code or any other provision of the Revised Code. 43162
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(2) In conducting a reconsideration, the department shall do at least the following: 43169
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(a) Specify the time frames within which a corporation must act in order to exercise its opportunity for a reconsideration; 43171
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(b) Permit the corporation to present written arguments or other materials that support the corporation's position. 43173
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(K) There is hereby created in the state treasury the managed care assessment fund. Money collected from the franchise permit fees and penalties imposed under this section shall be credited to 43175
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the fund. The department shall use the money in the fund to pay 43178
for medicaid services, the department's administrative costs, and 43179
contracts with medicaid health insuring corporations. 43180

(L) The director of job and family services may adopt rules 43181
to implement and administer this section. The rules shall be 43182
adopted in accordance with Chapter 119. of the Revised Code. 43183

Sec. 5111.19. The director of job and family services shall 43184
adopt rules governing the calculation and payment of graduate 43185
medical education costs associated with services rendered to 43186
medicaid recipients of the medical assistance program after June 43187
30, 1994. The Subject to section 5111.191 of the Revised Code, the 43188
rules shall provide for reimbursement of graduate medical 43189
education costs associated with services rendered to ~~medical~~ 43190
~~assistance~~ medicaid recipients, including recipients enrolled in 43191
~~health insuring corporations~~ a managed care organization under 43192
contract with the department under section 5111.17 of the Revised 43193
Code, that the department determines are allowable and reasonable. 43194

If the department requires a ~~health insuring corporation~~ 43195
managed care organization to pay a provider for graduate medical 43196
education costs associated with the delivery of services to 43197
~~medical assistance~~ medicaid recipients enrolled in the ~~corporation~~ 43198
organization, the department shall include in its payment to the 43199
~~corporation~~ organization an amount sufficient for the ~~corporation~~ 43200
organization to pay such costs. If the department does not include 43201
in its payments to the ~~health insuring corporation~~ managed care 43202
organization amounts for graduate medical education costs of 43203
providers, all of the following apply: 43204

(A) The Except as provided in section 5111.191 of the Revised 43205
Code, the department shall pay the provider for graduate medical 43206
education costs associated with the delivery of services to 43207
~~medical assistance~~ medicaid recipients enrolled in the ~~corporation~~ 43208

organization; 43209

(B) No provider shall seek reimbursement from the ~~corporation~~ 43210
organization for such costs; 43211

(C) The ~~corporation~~ organization is not required to pay 43212
providers for such costs. 43213

Sec. 5111.191. The department of job and family services 43214
shall not pay a hospital for graduate medical education costs 43215
associated with the delivery of services to any medicaid recipient 43216
if the hospital refuses without good cause to contract with a 43217
managed care organization that contracts with the department under 43218
section 5111.17 of the Revised Code to provide, or arrange for the 43219
provision of, health care services to medicaid recipients residing 43220
in the county, or a mandatory managed care enrollment service area 43221
designated by the department under section 5111.16 of the Revised 43222
Code, in which the hospital is located. The director of job and 43223
family services shall specify in the rules adopted under section 43224
5111.19 of the Revised Code what constitutes good cause for a 43225
hospital to refuse to contract with a managed care organization. 43226

Sec. 5111.20. As used in sections 5111.20 to ~~5111.34~~ 5111.33 43227
of the Revised Code: 43228

(A) "Allowable costs" are those costs determined by the 43229
department of job and family services to be reasonable and do not 43230
include fines paid under sections 5111.35 to 5111.61 and section 43231
5111.99 of the Revised Code. 43232

(B) "Ancillary and support costs" means all reasonable costs 43233
incurred by a nursing facility other than direct care costs or 43234
capital costs. "Ancillary and support costs" includes, but is not 43235
limited to, costs of activities, social services, pharmacy 43236
consultants, medical and habilitation records, program supplies, 43237
incontinence supplies, food, enterals, dietary supplies and 43238

personnel, laundry, housekeeping, security, administration, 43239
medical equipment, utilities, liability insurance, bookkeeping, 43240
purchasing department, human resources, communications, travel, 43241
dues, license fees, subscriptions, home office costs not otherwise 43242
allocated, legal services, accounting services, minor equipment, 43243
maintenance and repairs, help-wanted advertising, informational 43244
advertising, start-up costs, organizational expenses, other 43245
interest, property insurance, employee training and staff 43246
development, employee benefits, payroll taxes, and workers' 43247
compensation premiums or costs for self-insurance claims and 43248
related costs as specified in rules adopted by the director of job 43249
and family services under section 5111.02 of the Revised Code, for 43250
personnel listed in this division. "Ancillary and support costs" 43251
also means the cost of equipment, including vehicles, acquired by 43252
operating lease executed before December 1, 1992, if the costs are 43253
reported as administrative and general costs on the facility's 43254
cost report for the cost reporting period ending December 31, 43255
1992. 43256

(C) "Capital costs" means costs of ownership and, in the case 43257
of an intermediate care facility for the mentally retarded, costs 43258
of nonextensive renovation. 43259

(1) "Cost of ownership" means the actual expense incurred for 43260
all of the following: 43261

(a) Depreciation and interest on any capital assets that cost 43262
five hundred dollars or more per item, including the following: 43263

(i) Buildings; 43264

(ii) Building improvements that are not approved as 43265
nonextensive renovations under section ~~5111.25~~ or 5111.251 of the 43266
Revised Code; 43267

(iii) ~~Equipment~~ Except as provided in division (B) of this 43268
section, equipment; 43269

(iv) Extensive <u>In the case of an intermediate care facility</u>	43270
<u>for the mentally retarded, extensive</u> renovations;	43271
(v) Transportation equipment.	43272
(b) Amortization and interest on land improvements and	43273
leasehold improvements;	43274
(c) Amortization of financing costs;	43275
(d) Except as provided in division (I) <u>(J)</u> of this section,	43276
lease and rent of land, building, and equipment.	43277
The costs of capital assets of less than five hundred dollars	43278
per item may be considered <u>capital</u> costs of ownership in	43279
accordance with a provider's practice.	43280
(2) "Costs of nonextensive renovation" means the actual	43281
expense incurred <u>by an intermediate care facility for the mentally</u>	43282
<u>retarded</u> for depreciation or amortization and interest on	43283
renovations that are not extensive renovations.	43284
(C) <u>(D)</u> "Capital lease" and "operating lease" shall be	43285
construed in accordance with generally accepted accounting	43286
principles.	43287
(D) <u>(E)</u> "Case-mix score" means the measure determined under	43288
section 5111.231 <u>5111.232</u> of the Revised Code of the relative	43289
direct-care resources needed to provide care and habilitation to a	43290
resident of a nursing facility or intermediate care facility for	43291
the mentally retarded.	43292
(E) <u>(F)</u> "Date of licensure," for a facility originally	43293
licensed as a nursing home under Chapter 3721. of the Revised	43294
Code, means the date specific beds were originally licensed as	43295
nursing home beds under that chapter, regardless of whether they	43296
were subsequently licensed as residential facility beds under	43297
section 5123.19 of the Revised Code. For a facility originally	43298
licensed as a residential facility under section 5123.19 of the	43299

Revised Code, "date of licensure" means the date specific beds 43300
were originally licensed as residential facility beds under that 43301
section. 43302

(1) If nursing home beds licensed under Chapter 3721. of the 43303
Revised Code or residential facility beds licensed under section 43304
5123.19 of the Revised Code were not required by law to be 43305
licensed when they were originally used to provide nursing home or 43306
residential facility services, "date of licensure" means the date 43307
the beds first were used to provide nursing home or residential 43308
facility services, regardless of the date the present provider 43309
obtained licensure. 43310

(2) If a facility adds nursing home beds or residential 43311
facility beds or extensively renovates all or part of the facility 43312
after its original date of licensure, it will have a different 43313
date of licensure for the additional beds or extensively renovated 43314
portion of the facility, unless the beds are added in a space that 43315
was constructed at the same time as the previously licensed beds 43316
but was not licensed under Chapter 3721. or section 5123.19 of the 43317
Revised Code at that time. 43318

~~(F)~~(G) "Desk-reviewed" means that costs as reported on a cost 43319
report submitted under section 5111.26 of the Revised Code have 43320
been subjected to a desk review under division (A) of section 43321
5111.27 of the Revised Code and preliminarily determined to be 43322
allowable costs. 43323

~~(G)~~(H) "Direct care costs" means all of the following: 43324

(1)(a) Costs for registered nurses, licensed practical 43325
nurses, and nurse aides employed by the facility; 43326

(b) Costs for direct care staff, administrative nursing 43327
staff, medical directors, ~~social services staff, activities staff,~~ 43328
~~psychologists and psychology assistants, social workers and~~ 43329
~~counselors,~~ habilitation staff, qualified mental retardation 43330

professionals, program directors, respiratory therapists, 43331
habilitation supervisors, and except as provided in division 43332
(G)(2) of this section, other persons holding degrees qualifying 43333
them to provide therapy; 43334

(c) Costs of purchased nursing services; 43335

(d) Costs of quality assurance; 43336

(e) Costs of training and staff development, employee 43337
benefits, payroll taxes, and workers' compensation premiums or 43338
costs for self-insurance claims and related costs as specified in 43339
rules adopted by the director of job and family services in 43340
accordance with Chapter 119. of the Revised Code, for personnel 43341
listed in divisions ~~(G)~~(H)(1)(a), (b), and (d) of this section; 43342

(f) Costs of consulting and management fees related to direct 43343
care; 43344

(g) Allocated direct care home office costs. 43345

(2) In addition to the costs specified in division (H)(1) of 43346
this section, for nursing facilities only, direct care costs 43347
include medical supplies, emergency oxygen, habilitation supplies, 43348
and universal precautions supplies. 43349

(3) In addition to the costs specified in division ~~(G)~~(H)(1) 43350
of this section, for intermediate care facilities for the mentally 43351
retarded only, direct care costs include both of the following: 43352

(a) Costs for physical therapists and physical therapy 43353
assistants, occupational therapists and occupational therapy 43354
assistants, speech therapists, ~~and~~ audiologists, social services 43355
staff, activities staff, psychologists and psychology assistants, 43356
and social workers and counselors; 43357

(b) Costs of training and staff development, employee 43358
benefits, payroll taxes, and workers' compensation premiums or 43359
costs for self-insurance claims and related costs as specified in 43360

rules adopted ~~by the director of job and family services in~~ 43361
~~accordance with Chapter 119. under section 5111.02~~ of the Revised 43362
Code, for personnel listed in division ~~(G)(2)(H)(3)(a)~~ of this 43363
section. 43364

~~(3)(4)~~ Costs of other direct-care resources that are 43365
specified as direct care costs in rules adopted ~~by the director of~~ 43366
~~job and family services in accordance with Chapter 119. under~~ 43367
section 5111.02 of the Revised Code. 43368

~~(H)(I)~~ "Fiscal year" means the fiscal year of this state, as 43369
specified in section 9.34 of the Revised Code. 43370

~~(I)(J)~~ "Indirect care costs" means all reasonable costs 43371
incurred by an intermediate care facility for the mentally 43372
retarded other than direct care costs, other protected costs, or 43373
capital costs. "Indirect care costs" includes but is not limited 43374
to costs of habilitation supplies, pharmacy consultants, medical 43375
and habilitation records, program supplies, incontinence supplies, 43376
food, enterals, dietary supplies and personnel, laundry, 43377
housekeeping, security, administration, liability insurance, 43378
bookkeeping, purchasing department, human resources, 43379
communications, travel, dues, license fees, subscriptions, home 43380
office costs not otherwise allocated, legal services, accounting 43381
services, minor equipment, maintenance and repairs, help-wanted 43382
advertising, informational advertising, start-up costs, 43383
organizational expenses, other interest, property insurance, 43384
employee training and staff development, employee benefits, 43385
payroll taxes, and workers' compensation premiums or costs for 43386
self-insurance claims and related costs as specified in rules 43387
adopted ~~by the director of job and family services in accordance~~ 43388
~~with Chapter 119. under section 5111.02~~ of the Revised Code, for 43389
personnel listed in this division. Notwithstanding division 43390
~~(B)(C)(1)~~ of this section, "indirect care costs" also means the 43391
cost of equipment, including vehicles, acquired by operating lease 43392

executed before December 1, 1992, if the costs are reported as 43393
administrative and general costs on the facility's cost report for 43394
the cost reporting period ending December 31, 1992. 43395

~~(J)~~(K) "Inpatient days" means all days during which a 43396
resident, regardless of payment source, occupies a bed in a 43397
nursing facility or intermediate care facility for the mentally 43398
retarded that is included in the facility's certified capacity 43399
under Title XIX of the "Social Security Act," 49 Stat. 610 (1935), 43400
42 U.S.C.A. 301, as amended. Therapeutic or hospital leave days 43401
for which payment is made under section 5111.33 of the Revised 43402
Code are considered inpatient days proportionate to the percentage 43403
of the facility's per resident per day rate paid for those days. 43404

~~(K)~~(L) "Intermediate care facility for the mentally retarded" 43405
means an intermediate care facility for the mentally retarded 43406
certified as in compliance with applicable standards for the 43407
~~medical assistance~~ medicaid program by the director of health in 43408
accordance with Title XIX of the "Social Security Act." 43409

~~(L)~~(M) "Maintenance and repair expenses" means, except as 43410
provided in division ~~(X)~~(Y)(2) of this section, expenditures that 43411
are necessary and proper to maintain an asset in a normally 43412
efficient working condition and that do not extend the useful life 43413
of the asset two years or more. "Maintenance and repair expenses" 43414
includes but is not limited to the cost of ordinary repairs such 43415
as painting and wallpapering. 43416

~~(M)~~(N) "Nursing facility" means a facility, or a distinct 43417
part of a facility, that is certified as a nursing facility by the 43418
director of health in accordance with Title XIX of the "Social 43419
Security Act," and is not an intermediate care facility for the 43420
mentally retarded. "Nursing facility" includes a facility, or a 43421
distinct part of a facility, that is certified as a nursing 43422
facility by the director of health in accordance with Title XIX of 43423
the "Social Security Act," and is certified as a skilled nursing 43424

facility by the director in accordance with Title XVIII of the 43425
"Social Security Act." 43426

~~(N)~~(O) "Operator" means the person or government entity 43427
responsible for the daily operating and management decisions for a 43428
nursing facility or intermediate care facility for the mentally 43429
retarded. 43430

(P) "Other protected costs" means costs incurred by an 43431
intermediate care facility for the mentally retarded for medical 43432
supplies; real estate, franchise, and property taxes; natural gas, 43433
fuel oil, water, electricity, sewage, and refuse and hazardous 43434
medical waste collection; allocated other protected home office 43435
costs; and any additional costs defined as other protected costs 43436
in rules adopted ~~by the director of job and family services in~~ 43437
~~accordance with Chapter 119.~~ under section 5111.02 of the Revised 43438
Code. 43439

~~(O)~~(Q) "Owner" means any person or government entity that has 43440
at least five per cent ownership or interest, either directly, 43441
indirectly, or in any combination, in a nursing facility or 43442
intermediate care facility for the mentally retarded. 43443

~~(P)~~(R) "Patient" includes "resident." 43444

~~(Q)~~(S) Except as provided in divisions ~~(Q)~~(S)(1) and (2) of 43445
this section, "per diem" means a nursing facility's or 43446
intermediate care facility for the mentally retarded's actual, 43447
allowable costs in a given cost center in a cost reporting period, 43448
divided by the facility's inpatient days for that cost reporting 43449
period. 43450

(1) When calculating indirect care costs for the purpose of 43451
establishing rates under section ~~5111.24~~ or 5111.241 of the 43452
Revised Code, "per diem" means ~~a facility's~~ an intermediate care 43453
facility for the mentally retarded's actual, allowable indirect 43454
care costs in a cost reporting period divided by the greater of 43455

the facility's inpatient days for that period or the number of 43456
inpatient days the facility would have had during that period if 43457
its occupancy rate had been eighty-five per cent. 43458

(2) When calculating capital costs for the purpose of 43459
establishing rates under section 5111.25 or 5111.251 of the 43460
Revised Code, "per diem" means a facility's actual, allowable 43461
capital costs in a cost reporting period divided by the greater of 43462
the facility's inpatient days for that period or the number of 43463
inpatient days the facility would have had during that period if 43464
its occupancy rate had been ninety-five per cent. For the purpose 43465
of determining a nursing facility's occupancy rate under division 43466
(S)(2) of this section, the department of job and family services 43467
shall include any beds that the nursing facility removes from its 43468
bed capacity under its Title XIX certification after June 30, 43469
2005, unless the nursing facility also removes the beds from its 43470
licensed bed capacity. 43471

~~(R)~~(T) "Provider" means a person or government entity that 43472
operates a nursing facility or intermediate care facility for the 43473
mentally retarded under a provider agreement. 43474

~~(S)~~(U) "Provider agreement" means a contract between the 43475
department of job and family services and the operator of a 43476
nursing facility or intermediate care facility for the mentally 43477
retarded for the provision of nursing facility services or 43478
intermediate care facility services for the mentally retarded 43479
under the ~~medical assistance~~ medicaid program. 43480

~~(T)~~ "~~Purchased nursing services~~" ~~means services that are~~ 43481
~~provided in a nursing facility by registered nurses, licensed~~ 43482
~~practical nurses, or nurse aides who are not employees of the~~ 43483
~~facility.~~ 43484

~~(U)~~(V) "Reasonable" means that a cost is an actual cost that 43485
is appropriate and helpful to develop and maintain the operation 43486

of patient care facilities and activities, including normal 43487
standby costs, and that does not exceed what a prudent buyer pays 43488
for a given item or services. Reasonable costs may vary from 43489
provider to provider and from time to time for the same provider. 43490

~~(V)~~(W) "Related party" means an individual or organization 43491
that, to a significant extent, has common ownership with, is 43492
associated or affiliated with, has control of, or is controlled 43493
by, the provider. 43494

(1) An individual who is a relative of an owner is a related 43495
party. 43496

(2) Common ownership exists when an individual or individuals 43497
possess significant ownership or equity in both the provider and 43498
the other organization. Significant ownership or equity exists 43499
when an individual or individuals possess five per cent ownership 43500
or equity in both the provider and a supplier. Significant 43501
ownership or equity is presumed to exist when an individual or 43502
individuals possess ten per cent ownership or equity in both the 43503
provider and another organization from which the provider 43504
purchases or leases real property. 43505

(3) Control exists when an individual or organization has the 43506
power, directly or indirectly, to significantly influence or 43507
direct the actions or policies of an organization. 43508

(4) An individual or organization that supplies goods or 43509
services to a provider shall not be considered a related party if 43510
all of the following conditions are met: 43511

(a) The supplier is a separate bona fide organization. 43512

(b) A substantial part of the supplier's business activity of 43513
the type carried on with the provider is transacted with others 43514
than the provider and there is an open, competitive market for the 43515
types of goods or services the supplier furnishes. 43516

(c) The types of goods or services are commonly obtained by 43517
other nursing facilities or intermediate care facilities for the 43518
mentally retarded from outside organizations and are not a basic 43519
element of patient care ordinarily furnished directly to patients 43520
by the facilities. 43521

(d) The charge to the provider is in line with the charge for 43522
the goods or services in the open market and no more than the 43523
charge made under comparable circumstances to others by the 43524
supplier. 43525

~~(W)~~(X) "Relative of owner" means an individual who is related 43526
to an owner of a nursing facility or intermediate care facility 43527
for the mentally retarded by one of the following relationships: 43528

(1) Spouse; 43529

(2) Natural parent, child, or sibling; 43530

(3) Adopted parent, child, or sibling; 43531

(4) ~~Step parent~~ Stepparent, ~~step child~~ stepchild, 43532
~~step brother~~ stepbrother, or ~~step sister~~ stepsister; 43533

(5) Father-in-law, mother-in-law, son-in-law, 43534
daughter-in-law, brother-in-law, or sister-in-law; 43535

(6) Grandparent or grandchild; 43536

(7) Foster caregiver, foster child, foster brother, or foster 43537
sister. 43538

~~(X)~~(Y) "Renovation" and "extensive renovation" mean: 43539

(1) Any betterment, improvement, or restoration of ~~a nursing~~ 43540
~~facility or an~~ intermediate care facility for the mentally 43541
retarded started before July 1, 1993, that meets the definition of 43542
a renovation or extensive renovation established in rules adopted 43543
by the director of job and family services in effect on December 43544
22, 1992. 43545

(2) In the case of betterments, improvements, and 43546
restorations of ~~nursing facilities and~~ intermediate care 43547
facilities for the mentally retarded started on or after July 1, 43548
1993: 43549

(a) "Renovation" means the betterment, improvement, or 43550
restoration of ~~a nursing facility or~~ an intermediate care facility 43551
for the mentally retarded beyond its current functional capacity 43552
through a structural change that costs at least five hundred 43553
dollars per bed. A renovation may include betterment, improvement, 43554
restoration, or replacement of assets that are affixed to the 43555
building and have a useful life of at least five years. A 43556
renovation may include costs that otherwise would be considered 43557
maintenance and repair expenses if they are an integral part of 43558
the structural change that makes up the renovation project. 43559
"Renovation" does not mean construction of additional space for 43560
beds that will be added to a facility's licensed or certified 43561
capacity. 43562

(b) "Extensive renovation" means a renovation that costs more 43563
than sixty-five per cent and no more than eighty-five per cent of 43564
the cost of constructing a new bed and that extends the useful 43565
life of the assets for at least ten years. 43566

For the purposes of division ~~(X)~~(Y)(2) of this section, the 43567
cost of constructing a new bed shall be considered to be forty 43568
thousand dollars, adjusted for the estimated rate of inflation 43569
from January 1, 1993, to the end of the calendar year during which 43570
the renovation is completed, using the consumer price index for 43571
shelter costs for all urban consumers for the north central 43572
region, as published by the United States bureau of labor 43573
statistics. 43574

The department of job and family services may treat a 43575
renovation that costs more than eighty-five per cent of the cost 43576

of constructing new beds as an extensive renovation if the 43577
department determines that the renovation is more prudent than 43578
construction of new beds. 43579

Sec. 5111.204. (A) As used in this section ~~and in section~~ 43580
~~5111.205 of the Revised Code~~, "representative" means a person 43581
acting on behalf of an applicant for or recipient of ~~medical~~ 43582
~~assistance~~ medicaid. A representative may be a family member, 43583
attorney, hospital social worker, or any other person chosen to 43584
act on behalf of an applicant or recipient. 43585

(B) The department of job and family services may require ~~an~~ 43586
each applicant for or recipient of ~~medical assistance~~ medicaid who 43587
applies or intends to apply for admission to a nursing facility or 43588
resides in a nursing facility to undergo an assessment to 43589
determine whether the applicant or recipient needs the level of 43590
care provided by a nursing facility. ~~To~~ The assessment may be 43591
performed concurrently with a long-term care consultation 43592
performed under section 173.42 of the Revised Code. 43593

To the maximum extent possible, the assessment shall be based 43594
on information from the resident assessment instrument specified 43595
in rules adopted by the director of job and family services under 43596
division (A) of section ~~5111.231~~ 5111.232 of the Revised Code. The 43597
assessment shall also be based on criteria and procedures 43598
established in rules adopted under division ~~(H)~~ (F) of this section 43599
and information provided by the person being assessed or the 43600
person's representative. ~~The~~ 43601

The department of job and family services, or if the 43602
assessment is performed by ~~another~~ an agency ~~designated~~ under 43603
contract with the department pursuant to division (G) of this 43604
~~section 5101.754 of the Revised Code~~, the agency, shall, not later 43605
than the time the assessment level of care determination based on 43606
the assessment is required to be ~~performed~~ provided under division 43607

(C) of this section, give written notice of its conclusions and 43608
the basis for them to the person assessed and, if the department 43609
of job and family services or ~~designated entity~~ agency under 43610
contract with the department has been informed that the person has 43611
a representative, to the representative. 43612

(C) The department of job and family services or ~~designated~~ 43613
agency under contract with the department, whichever performs the 43614
assessment, shall ~~perform a complete assessment, or, if~~ 43615
~~circumstances provided by rules adopted under division (H) of this~~ 43616
~~section exist, a partial assessment, provide a level of care~~ 43617
determination based on the assessment as follows: 43618

(1) In the case of a person applying or intending to apply 43619
for admission to a nursing facility while hospitalized, not later 43620
than one of the following: 43621

(a) One working day after the person or the person's 43622
representative submits ~~an~~ the application ~~for admission to the~~ 43623
~~nursing facility~~ or notifies the department of the person's 43624
intention to apply and submits all information required for 43625
providing the level of care determination, as specified in rules 43626
adopted under division (F)(2) of this section; 43627

(b) A later date requested by the person or the person's 43628
representative. 43629

(2) In the case of ~~an emergency as determined in accordance~~ 43630
~~with rules adopted under division (H) of this section, not later~~ 43631
~~than one calendar day after the person or the person's~~ 43632
~~representative submits the application or notifies the department~~ 43633
~~of the person's intention to apply.~~ 43634

~~(3) In all other cases a person applying or intending to~~ 43635
apply for admission to a nursing facility who is not hospitalized, 43636
not later than one of the following: 43637

(a) Five calendar days after the person or the person's 43638

representative submits the application or notifies the department
of the person's intention to apply and submits all information
required for providing the level of care determination, as
specified in rules adopted under division (F)(2) of this section;

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(b) A later date requested by the person or the person's
representative.

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(3) In the case of a person who resides in a nursing
facility, not later than one of the following:

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(a) Five calendar days after the person or the person's
representative submits an application for medical assistance and
submits all information required for providing the level of care
determination, as specified in rules adopted under division (F)(2)
of this section;

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(b) A later date requested by the person or the person's
representative.

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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.

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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.~~

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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.~~

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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 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.

~~(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.

~~(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:

(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:~~

~~(a) Nursing or rehabilitation services;~~

(b) Assistance with two or more of the activities of daily living;	43700
	43701
(c) Continuous supervision to prevent harm to the person as a result of cognitive impairment.	43702
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(2) Information the person being assessed or the person's representative must provide to the department or designated agency <u>under contract with the department</u> for purposes of the assessment <u>and providing a level of care determination based on the assessment;</u>	43704
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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;	43709
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(4) Circumstances under which a person is not required to be assessed;	43712
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<u>(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.</u>	43714
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<u>(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.</u>	43718
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Sec. 5111.21. (A) Subject to sections 5111.01, 5111.011, 5111.012, 5111.02 <u>5111.021</u> , 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 <u>5111.33</u> of the Revised Code, the reasonable costs of services provided to an eligible medicaid recipient by an eligible nursing facility or intermediate care	43724
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facility for the mentally retarded. 43730

In order to be eligible for ~~medical assistance~~ medicaid 43731
payments, the operator of a nursing facility or intermediate care 43732
facility for the mentally retarded shall do all of the following: 43733

(1) Enter into a provider agreement with the department as 43734
provided in section 5111.22 of the Revised Code; 43735

(2) Apply for and maintain a valid license to operate if so 43736
required by law; 43737

(3) Comply with all applicable state and federal laws and 43738
rules. 43739

(B) ~~A~~ The operator of a nursing facility that elects to 43740
obtain and maintain eligibility for payments under the medicaid 43741
program shall qualify all of the facility's medicaid-certified 43742
beds in the medicare program established by Title XVIII of the 43743
"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The 43744
director of job and family services may adopt rules ~~in accordance~~ 43745
~~with Chapter 119.~~ under section 5111.02 of the Revised Code to 43746
establish the time frame in which a nursing facility must comply 43747
with this requirement. 43748

Sec. 5111.22. A provider agreement between the department of 43749
job and family services and the operator of a nursing facility or 43750
intermediate care facility for the mentally retarded shall contain 43751
the following provisions: 43752

(A) The department agrees to make payments to the ~~nursing~~ 43753
~~facility or intermediate care facility for the mentally retarded~~ 43754
~~for patients eligible for services under the medical assistance~~ 43755
~~program~~ operator, as provided in sections 5111.20 to ~~5111.32~~ 43756
5111.33 of the Revised Code, for medicaid-covered services the 43757
facility provides to a resident of the facility who is a medicaid 43758
recipient. No payment shall be made for the day a medicaid 43759

recipient is discharged from the facility. 43760

(B) The ~~provider~~ operator agrees to: 43761

(1) Maintain eligibility as provided in section 5111.21 of 43762
the Revised Code; 43763

(2) Keep records relating to a cost reporting period for the 43764
greater of seven years after the cost report is filed or, if the 43765
department issues an audit report in accordance with division (B) 43766
of section 5111.27 of the Revised Code, six years after all appeal 43767
rights relating to the audit report are exhausted; 43768

(3) File reports as required by the department; 43769

(4) Open all records relating to the costs of its services 43770
for inspection and audit by the department; 43771

(5) Open its premises for inspection by the department, the 43772
department of health, and any other state or local authority 43773
having authority to inspect; 43774

(6) Supply to the department such information as it requires 43775
concerning the facility's services to ~~patients~~ residents who are 43776
or are eligible to be medicaid recipients; 43777

(7) Comply with section 5111.31 of the Revised Code. 43778

The provider agreement may contain other provisions that are 43779
consistent with law and considered necessary by the department. 43780

A provider agreement shall be effective for no longer than 43781
twelve months, except that if federal statute or regulations 43782
authorize a longer term, it may be effective for a longer term so 43783
authorized. A provider agreement may be renewed only if the 43784
facility is certified by the department of health for 43785
participation in the medicaid program. 43786

The department of job and family services, in accordance with 43787
rules adopted ~~by the director pursuant to Chapter 119.~~ under 43788
section 5111.02 of the Revised Code, may elect not to enter into, 43789

not to renew, or to terminate a provider agreement when the 43790
department determines that such an agreement would not be in the 43791
best interests of ~~the~~ medicaid recipients or of the state. 43792

Sec. 5111.221. The department of job and family services 43793
shall make its best efforts each year to calculate rates under 43794
sections ~~5111.23~~ 5111.20 to ~~5111.29~~ 5111.33 of the Revised Code in 43795
time to use them to make the payments due to ~~nursing facilities~~ 43796
~~and intermediate care facilities for the mentally retarded~~ 43797
providers by the fifteenth day of August. If the department is 43798
unable to calculate the rates so that they can be paid by that 43799
date, the department shall pay each ~~facility~~ provider the rate 43800
calculated for ~~it~~ the provider's nursing facilities and 43801
intermediate care facilities for the mentally retarded under those 43802
sections at the end of the previous fiscal year. If the department 43803
also is unable to calculate the rates to make the payments due by 43804
the fifteenth day of September and the fifteenth day of October, 43805
the department shall pay the previous fiscal year's rate to make 43806
those payments. The department may increase by five per cent the 43807
previous fiscal year's rate paid ~~to~~ for any facility pursuant to 43808
this section at the request of the ~~facility~~ provider. The 43809
department shall use rates calculated for the current fiscal year 43810
to make the payments due by the fifteenth day of November. 43811

If the rate paid to a provider for a facility pursuant to 43812
this section is lower than the rate calculated for ~~it~~ the facility 43813
for the current fiscal year, the department shall pay the ~~facility~~ 43814
provider the difference between the two rates for the number of 43815
days for which the ~~facility~~ provider was paid for the facility 43816
pursuant to this section. If the rate paid ~~to~~ for a facility 43817
pursuant to this section is higher than the rate calculated for it 43818
for the current fiscal year, the ~~facility~~ provider shall refund to 43819
the department the difference between the two rates for the number 43820
of days for which the ~~facility~~ provider was paid for the facility 43821

pursuant to this section. 43822

Sec. 5111.222. The operator of a nursing facility or 43823
intermediate care facility for the mentally retarded may enter 43824
into provider agreements for more than one nursing facility or 43825
intermediate care facility for the mentally retarded. 43826

Sec. 5111.23. (A) The department of job and family services 43827
shall pay a provider for each of the provider's eligible ~~nursing~~ 43828
~~facility and~~ intermediate care ~~facility~~ facilities for the 43829
mentally retarded a per resident per day rate for direct care 43830
costs established prospectively for each facility. The department 43831
shall establish each facility's rate for direct care costs 43832
quarterly. 43833

(B) Each facility's rate for direct care costs shall be based 43834
on the facility's cost per case-mix unit, subject to the maximum 43835
costs per case-mix unit established under division (B)(2) of this 43836
section, from the calendar year preceding the fiscal year in which 43837
the rate is paid. To determine the rate, the department shall do 43838
all of the following: 43839

(1) Determine each facility's cost per case-mix unit for the 43840
calendar year preceding the fiscal year in which the rate will be 43841
paid by dividing the facility's desk-reviewed, actual, allowable, 43842
per diem direct care costs for that year by its average case-mix 43843
score determined under section ~~5111.231~~ 5111.232 of the Revised 43844
Code for the same calendar year. 43845

(2)(a) ~~Set the maximum cost per case-mix unit for each peer~~ 43846
~~group of nursing facilities specified in rules adopted under~~ 43847
~~division (E) of this section at a percentage above the cost per~~ 43848
~~case-mix unit of the facility in the group that has the group's~~ 43849
~~median medicaid inpatient day for the calendar year preceding the~~ 43850
~~fiscal year in which the rate will be paid, as calculated under~~ 43851

~~division (B)(1) of this section, that is no less than the~~ 43852
~~percentage calculated under division (D)(1) of this section.~~ 43853

~~(b)~~ Set the maximum cost per case-mix unit for each peer 43854
group of intermediate care facilities for the mentally retarded 43855
with more than eight beds specified in rules adopted under 43856
division (E) of this section at a percentage above the cost per 43857
case-mix unit of the facility in the group that has the group's 43858
median medicaid inpatient day for the calendar year preceding the 43859
fiscal year in which the rate will be paid, as calculated under 43860
division (B)(1) of this section, that is no less than the 43861
percentage calculated under division (D)(2) of this section. 43862

~~(e)~~(b) Set the maximum cost per case-mix unit for each peer 43863
group of intermediate care facilities for the mentally retarded 43864
with eight or fewer beds specified in rules adopted under division 43865
(E) of this section at a percentage above the cost per case-mix 43866
unit of the facility in the group that has the group's median 43867
medicaid inpatient day for the calendar year preceding the fiscal 43868
year in which the rate will be paid, as calculated under division 43869
(B)(1) of this section, that is no less than the percentage 43870
calculated under division (D)(3) of this section. 43871

~~(d)~~(c) In calculating the maximum cost per case-mix unit 43872
under divisions (B)(2)(a) to ~~(e)~~(b) of this section for each peer 43873
group, the department shall exclude from its calculations the cost 43874
per case-mix unit of any facility in the group that participated 43875
in the ~~medical-assistance~~ medicaid program under the same operator 43876
for less than twelve months during the calendar year preceding the 43877
fiscal year in which the rate will be paid. 43878

(3) Estimate the rate of inflation for the eighteen-month 43879
period beginning on the first day of July of the calendar year 43880
preceding the fiscal year in which the rate will be paid and 43881
ending on the thirty-first day of December of the fiscal year in 43882
which the rate will be paid, using the employment cost index for 43883

total compensation, health services component, published by the 43884
United States bureau of labor statistics. If the estimated 43885
inflation rate for the eighteen-month period is different from the 43886
actual inflation rate for that period, as measured using the same 43887
index, the difference shall be added to or subtracted from the 43888
inflation rate estimated under division (B)(3) of this section for 43889
the following fiscal year. 43890

(4) The department shall not recalculate a maximum cost per 43891
case-mix unit under division (B)(2) of this section or a 43892
percentage under division (D) of this section based on additional 43893
information that it receives after the maximum costs per case-mix 43894
unit or percentages are set. The department shall recalculate a 43895
maximum cost per case-mix units or percentage only if it made an 43896
error in computing the maximum cost per case-mix unit or 43897
percentage based on information available at the time of the 43898
original calculation. 43899

(C) Each facility's rate for direct care costs shall be 43900
determined as follows for each calendar quarter within a fiscal 43901
year: 43902

(1) Multiply the lesser of the following by the facility's 43903
average case-mix score determined under section ~~5111.231~~ 5111.232 43904
of the Revised Code for the calendar quarter that preceded the 43905
immediately preceding calendar quarter: 43906

(a) The facility's cost per case-mix unit for the calendar 43907
year preceding the fiscal year in which the rate will be paid, as 43908
determined under division (B)(1) of this section; 43909

(b) The maximum cost per case-mix unit established for the 43910
fiscal year in which the rate will be paid for the facility's peer 43911
group under division (B)(2) of this section; 43912

(2) Adjust the product determined under division (C)(1) of 43913
this section by the inflation rate estimated under division (B)(3) 43914

of this section.

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~~(D)(1) The department shall calculate the percentage above
the median cost per case-mix unit determined under division (B)(1)
of this section for the facility that has the median medicaid
inpatient day for calendar year 1992 for all nursing facilities
that would result in payment of all desk reviewed, actual,
allowable direct care costs for eighty five per cent of the
medicaid inpatient days for nursing facilities for calendar year
1992.~~

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~~(2) The department shall calculate the percentage above the
median cost per case-mix unit determined under division (B)(1) of
this section for the facility that has the median medicaid
inpatient day for calendar year 1992 for all intermediate care
facilities for the mentally retarded with more than eight beds
that would result in payment of all desk-reviewed, actual,
allowable direct care costs for eighty and one-half per cent of
the medicaid inpatient days for such facilities for calendar year
1992.~~

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~~(3)(2) The department shall calculate the percentage above
the median cost per case-mix unit determined under division (B)(1)
of this section for the facility that has the median medicaid
inpatient day for calendar year 1992 for all intermediate care
facilities for the mentally retarded with eight or fewer beds that
would result in payment of all desk-reviewed, actual, allowable
direct care costs for eighty and one-half per cent of the medicaid
inpatient days for such facilities for calendar year 1992.~~

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(E) The director of job and family services shall adopt rules
~~in accordance with Chapter 119. under section 5111.02 of the~~
Revised Code that specify peer groups of ~~nursing facilities,~~
intermediate care facilities for the mentally retarded with more
than eight beds, and intermediate care facilities for the mentally

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retarded with eight or fewer beds, based on findings of 43946
significant per diem direct care cost differences due to geography 43947
and facility bed-size. The rules also may specify peer groups 43948
based on findings of significant per diem direct care cost 43949
differences due to other factors which may include, ~~in the case of~~ 43950
~~intermediate care facilities for the mentally retarded,~~ case-mix. 43951

(F) The department, in accordance with division (C) of 43952
section ~~5111.231~~ 5111.232 of the Revised Code and rules adopted 43953
under division (D) of that section, may assign case-mix scores or 43954
costs per case-mix unit if a ~~facility~~ provider fails to submit 43955
assessment information necessary to calculate ~~its~~ an intermediate
care facility for the mentally retarded's case-mix score in 43956
accordance with that section. 43957
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Sec. 5111.231. (A) The department of job and family services 43959
shall pay a provider for each of the provider's eligible nursing 43960
facilities a per resident per day rate for direct care costs 43961
established prospectively for each facility. The department shall 43962
establish each facility's rate for direct care costs quarterly. 43963

(B) Each facility's rate for direct care costs shall be based 43964
on the facility's cost per case-mix unit, subject to the maximum 43965
costs per case-mix unit established under division (B)(2) of this 43966
section, from the calendar year preceding the fiscal year in which 43967
the rate is paid. To determine the rate, the department shall do 43968
all of the following: 43969

(1) Determine each facility's cost per case-mix unit for the 43970
calendar year preceding the fiscal year in which the rate will be 43971
paid by dividing the facility's desk-reviewed, actual, allowable, 43972
per diem direct care costs for that year by its average case-mix 43973
score determined under section 5111.232 of the Revised Code for 43974
the same calendar year. 43975

(2)(a) Set the maximum cost per case-mix unit for each peer 43976

group of nursing facilities specified in division (D) of this 43977
section at one hundred sixteen per cent above the cost per 43978
case-mix unit of the facility in the group that has the group's 43979
median medicaid inpatient day for the calendar year preceding the 43980
fiscal year in which the rate will be paid, as calculated under 43981
division (B)(1) of this section. 43982

(b) In calculating the maximum cost per case-mix unit under 43983
division (B)(2)(a) of this section for each peer group, the 43984
department shall exclude from its calculations the cost per 43985
case-mix unit of either of the following: 43986

(i) Any facility in the group that participated in the 43987
medicaid program under the same operator for less than twelve 43988
months during the calendar year preceding the fiscal year in which 43989
the rate will be paid; 43990

(ii) Any facility in the group that has a cost per case-mix 43991
unit that is more than one standard deviation greater or less than 43992
the mean cost per case-mix unit for all nursing facilities in the 43993
group for the calendar year preceding the fiscal year in which the 43994
rate will be paid. 43995

(3) Estimate the rate of inflation for the eighteen-month 43996
period beginning on the first day of July of the calendar year 43997
preceding the fiscal year in which the rate will be paid and 43998
ending on the thirty-first day of December of the fiscal year in 43999
which the rate will be paid, using the employment cost index for 44000
total compensation, health services component, published by the 44001
United States bureau of labor statistics. If the estimated 44002
inflation rate for the eighteen-month period is different from the 44003
actual inflation rate for that period, as measured using the same 44004
index, the difference shall be added to or subtracted from the 44005
inflation rate estimated under division (B)(3) of this section for 44006
the following fiscal year. 44007

(4) The department shall not recalculate a maximum cost per case-mix unit under division (B)(2) of this section based on additional information that it receives after the maximum costs per case-mix unit are set. The department shall recalculate a maximum cost per case-mix units only if it made an error in computing the maximum cost per case-mix unit based on information available at the time of the original calculation.

(C) Each facility's rate for direct care costs shall be determined as follows for each calendar quarter within a fiscal year:

(1) Multiply the lesser of the following by the facility's average case-mix score determined under section 5111.232 of the Revised Code for the calendar quarter that preceded the immediately preceding calendar quarter:

(a) The facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section;

(b) The maximum cost per case-mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section;

(2) Adjust the product determined under division (C)(1) of this section by the inflation rate estimated under division (B)(3) of this section.

(D)(1) The director of job and family services shall use peer groups of nursing facilities for the purpose of this section that are the same as the peer groups specified in rules that were authorized by section 5111.23 of the Revised Code as that section existed on the day before the effective date of this section and were in effect on January 1, 2004, except that nursing facilities located in Ottawa, Erie, Morrow, Union, or Preble counties shall be added to the metropolitan statistical area peer group specified

in those rules. 44039

(E) The department, in accordance with division (C) of 44040
section 5111.232 of the Revised Code and rules adopted under 44041
division (D) of that section, may assign case-mix scores or costs 44042
per case-mix unit if a provider fails to submit assessment 44043
information necessary to calculate a nursing facility's case-mix 44044
score in accordance with that section. 44045

Sec. ~~5111.231~~ 5111.232. (A)(1) The department of job and 44046
family services shall determine case-mix scores for nursing 44047
facilities using data for each resident, regardless of payment 44048
source, from a resident assessment instrument specified in rules 44049
adopted ~~in accordance with Chapter 119.~~ under section 5111.02 of 44050
the Revised Code pursuant to section 1919(e)(5) of the "Social 44051
Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as 44052
amended, and the case-mix values established by the United States 44053
department of health and human services. Except as modified in 44054
rules ~~adopted under~~ authorized by division (A)(1)(c) of this 44055
section, the department also shall use the grouper methodology 44056
used on June 30, 1999, by the United States department of health 44057
and human services for prospective payment of skilled nursing 44058
facilities under the medicare program established by Title XVIII 44059
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 44060
301, as amended. The director of job and family services may adopt 44061
rules ~~in accordance with Chapter 119.~~ under section 5111.02 of the 44062
Revised Code that do any of the following: 44063

(a) Adjust the case-mix values to reflect changes in relative 44064
wage differentials that are specific to this state; 44065

(b) Express all of the case-mix values in numeric terms that 44066
are different from the terms specified by the United States 44067
department of health and human services but that do not alter the 44068
relationship of the case-mix values to one another; 44069

(c) Modify the grouper methodology as follows: 44070

(i) Establish a different hierarchy for assigning residents 44071
to case-mix categories under the methodology; 44072

(ii) Prohibit the use of the index maximizer element of the 44073
methodology; 44074

(iii) Incorporate changes to the methodology the United 44075
States department of health and human services makes after June 44076
30, 1999; 44077

~~(iv) Make other changes the nursing facility reimbursement 44078
study council established by section 5111.34 of the Revised Code 44079
approves. 44080~~

(2) The department shall determine case-mix scores for 44081
intermediate care facilities for the mentally retarded using data 44082
for each resident, regardless of payment source, from a resident 44083
assessment instrument and grouper methodology prescribed in rules 44084
adopted ~~in accordance with Chapter 119.~~ under section 5111.02 of 44085
the Revised Code and expressed in case-mix values established by 44086
the department in those rules. 44087

(B) Not later than fifteen days after the end of each 44088
calendar quarter, each ~~nursing facility and intermediate care 44089
facility for the mentally retarded~~ provider shall submit to the 44090
department the complete assessment data, from the instrument 44091
specified in rules ~~adopted under~~ authorized by division (A) of 44092
this section, for each resident of each of the provider's 44093
facilities, regardless of payment source, who was in the facility 44094
or on hospital or therapeutic leave from the facility on the last 44095
day of the quarter. 44096

Except as provided in division (C) of this section, the 44097
department, after the end of each calendar year and pursuant to 44098
procedures specified in rules adopted ~~in accordance with Chapter 44099~~

~~119.~~ under section 5111.02 of the Revised Code, shall calculate an 44100
annual average case-mix score for each nursing facility and 44101
intermediate care facility for the mentally retarded using the 44102
facility's quarterly case-mix scores for that calendar year. 44103

(C)(1) If a facility provider does not timely submit 44104
information for a calendar quarter necessary to calculate ~~its~~ a 44105
facility's case-mix score, or submits incomplete or inaccurate 44106
information for a calendar quarter, the department may assign the 44107
facility a quarterly average case-mix score that is five per cent 44108
less than the facility's quarterly average case-mix score for the 44109
preceding calendar quarter. If the facility was subject to an 44110
exception review under division (C) of section 5111.27 of the 44111
Revised Code for the preceding calendar quarter, the department 44112
may assign a quarterly average case-mix score that is five per 44113
cent less than the score determined by the exception review. If 44114
the facility was assigned a quarterly average case-mix score for 44115
the preceding quarter, the department may assign a quarterly 44116
average case-mix score that is five per cent less than that score 44117
assigned for the preceding quarter. 44118

The department may use a quarterly average case-mix score 44119
assigned under division (C)(1) of this section, instead of a 44120
quarterly average case-mix score calculated based on the 44121
~~facility's~~ provider's submitted information, to calculate the 44122
facility's rate for direct care costs being established under 44123
section 5111.23 or 5111.231 of the Revised Code for one or more 44124
months, as specified in rules ~~adopted under~~ authorized by division 44125
(D) of this section, of the quarter for which the rate established 44126
under section 5111.23 or 5111.231 of the Revised Code will be 44127
paid. 44128

Before taking action under division (C)(1) of this section, 44129
the department shall permit the facility provider a reasonable 44130
period of time, specified in rules ~~adopted under~~ authorized by 44131

division (D) of this section, to correct the information. In the 44132
case of an intermediate care facility for the mentally retarded, 44133
the department shall not assign a quarterly average case-mix score 44134
due to late submission of corrections to assessment information 44135
unless the ~~facility~~ provider fails to submit corrected information 44136
prior to the eighty-first day after the end of the calendar 44137
quarter to which the information pertains. In the case of a 44138
nursing facility, the department shall not assign a quarterly 44139
average case-mix score due to late submission of corrections to 44140
assessment information unless the ~~facility~~ provider fails to 44141
submit corrected information prior to the earlier of the 44142
eighty-first day after the end of the calendar quarter to which 44143
the information pertains or the deadline for submission of such 44144
corrections established by regulations adopted by the United 44145
States department of health and human services under Titles XVIII 44146
and XIX of the Social Security Act. 44147

(2) If a ~~facility~~ provider is paid a rate for a facility 44148
calculated using a quarterly average case-mix score assigned under 44149
division (C)(1) of this section for more than six months in a 44150
calendar year, the department may assign the facility a cost per 44151
case-mix unit that is five per cent less than the facility's 44152
actual or assigned cost per case-mix unit for the preceding 44153
calendar year. The department may use the assigned cost per 44154
case-mix unit, instead of calculating the facility's actual cost 44155
per case-mix unit in accordance with section 5111.23 or 5111.231 44156
of the Revised Code, to establish the facility's rate for direct 44157
care costs for the following fiscal year. 44158

(3) The department shall take action under division (C)(1) or 44159
(2) of this section only in accordance with rules ~~adopted under~~ 44160
authorized by division (D) of this section. The department shall 44161
not take an action that affects rates for prior payment periods 44162
except in accordance with sections 5111.27 and 5111.28 of the 44163

Revised Code. 44164

(D) The director may adopt rules ~~in accordance with Chapter~~ 44165
~~119-~~ under section 5111.02 of the Revised Code that do any of the 44166
following: 44167

(1) Specify the medium or media through which the completed 44168
assessment information shall be submitted; 44169

(2) Establish procedures under which the department will 44170
review assessment information for accuracy and notify the ~~facility~~ 44171
provider of any information that requires correction; 44172

(3) Establish procedures for ~~facilities~~ providers to correct 44173
assessment information. The procedures may prohibit the provider 44174
of an intermediate care facility for the mentally retarded from 44175
submitting corrected assessment information, for the purpose of 44176
calculating ~~its~~ the facility's annual average case-mix score, more 44177
than two calendar quarters after the end of the quarter to which 44178
the information pertains or, if the information pertains to the 44179
quarter ending the thirty-first day of December, after the 44180
thirty-first day of the following March. The procedures may limit 44181
the content of corrections by providers of nursing facilities in 44182
the manner required by regulations adopted by the United States 44183
department of health and human services under Titles XVIII and XIX 44184
of the Social Security Act and prohibit a provider of a nursing 44185
facility from submitting corrected assessment information, for the 44186
purpose of calculating ~~its~~ the facility's annual average case-mix 44187
score, more than the earlier of the following: 44188

(a) Two calendar quarters after the end of the quarter to 44189
which the information pertains or, if the information pertains to 44190
the quarter ending the thirty-first day of December, after the 44191
thirty-first day of the following March; 44192

(b) The deadline for submission of such corrections 44193
established by regulations adopted by the United States department 44194

of health and human services under Titles XVIII and XIX of the Social Security Act. 44195
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(4) Specify when and how the department will assign case-mix scores or costs per case-mix unit under division (C) of this section if information necessary to calculate the facility's average annual or quarterly case-mix score is not provided or corrected in accordance with the procedures established by the rules. Notwithstanding any other provision of sections 5111.20 to 5111.32 5111.33 of the Revised Code, the rules also may provide for exclusion of case-mix scores assigned under division (C) of this section from calculation of the facility's annual average case-mix score and the maximum cost per case-mix unit for the facility's peer group. 44197
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Sec. 5111.234. (A) As used in this section, "deficiency" and "standard survey" have the same meanings as in section 5111.35 of the Revised Code. 44208
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(B) Each year, the department of job and family services shall pay each nursing facility placed in the first, second, and third quality tier groups established under division (C) of this section a quality incentive payment. Nursing facilities placed in the first group shall receive the highest payment. Nursing facilities placed in the second group shall receive the second highest payment. Nursing facilities placed in the third group shall receive the third highest payment. Nursing facilities placed in the fourth group shall receive no payment. The mean payment, weighted by medicaid days, shall be two per cent of the average rate for all nursing facilities calculated under sections 5111.20 to 5111.33 of the Revised Code, excluding this section. Nursing facilities placed in the fourth group shall be included for the purpose of determining the mean payment. 44211
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(C) Each year, the department shall establish four quality 44225

tier groups. Each group shall consist of one quarter of all 44226
nursing facilities participating in the medicaid program. The 44227
first group shall consist of the quarter of nursing facilities 44228
individually awarded the most number of points under division (D) 44229
of this section. The second group shall consist of the quarter of 44230
nursing facilities individually awarded the second most number of 44231
points under division (D) of this section. The third group shall 44232
consist of the quarter of nursing facilities individually awarded 44233
the third most number of points under division (D) of this 44234
section. The fourth group shall consist of the quarter of nursing 44235
facilities individually awarded the least number of points under 44236
division (D) of this section. 44237

(D) Each year, the department shall award each nursing 44238
facility participating in the medicaid program one point for each 44239
of the following accountability measures the facility meets: 44240

(1) The facility had no health deficiencies on the facility's 44241
most recent standard survey. 44242

(2) The facility had no health deficiencies with a scope and 44243
severity level greater than E, as determined under nursing 44244
facility certification standards established under Title XIX, on 44245
the facility's most recent standard survey. 44246

(3) The facility's resident satisfaction is above the 44247
statewide average. 44248

(4) The facility's family satisfaction is above the statewide 44249
average. 44250

(5) The number of hours the facility employs nurses is above 44251
the statewide average. 44252

(6) The facility's employee retention rate is above the 44253
average for the facility's peer group specified in division (D) of 44254
section 5111.231 of the Revised Code. 44255

<u>(7) The facility's occupancy rate is above the statewide average.</u>	44256 44257
<u>(8) The facility's medicaid utilization rate is above the statewide average.</u>	44258 44259
<u>(9) The facility's case-mix score is above the statewide average.</u>	44260 44261
<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>	44262 44263 44264 44265
Sec. 5111.235. The department of job and family services shall pay <u>a provider for each of the provider's eligible nursing facility and intermediate care facility facilities</u> for the mentally retarded a per resident per day rate for other protected costs established prospectively each fiscal year for each facility. The rate for each facility shall be the facility's desk-reviewed, actual, allowable, per diem other protected costs from the calendar year preceding the fiscal year in which the rate will be paid, all adjusted, except for franchise permit fees paid under section 3721.53 of the Revised Code, for the estimated inflation rate 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 that fiscal year. The department shall estimate inflation using the consumer price index for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, the difference shall be added to or subtracted from the inflation rate estimated for the following year.	44266 44267 44268 44269 44270 44271 44272 44273 44274 44275 44276 44277 44278 44279 44280 44281 44282 44283 44284 44285 44286

~~Sec. 5111.24. (A) The department of job and family services shall pay a provider for each of the provider's eligible nursing facility facilities a per resident per day rate for indirect care ancillary and support costs established prospectively each fiscal year for each facility peer group of nursing facilities specified in division (E) of this section. The rate shall be based on the prices for nursing facility's ancillary and support costs. The rate for each nursing facility peer group shall be the sum of the following, but shall not exceed the maximum rate established for the facility's peer group under division (B) of this section:~~

~~(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;~~

~~(2) An efficiency incentive in the following amount:~~

~~(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;~~

~~(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.~~

~~(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:~~

~~(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~~

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and support cost of the facility in the peer group that has the 44317
group's median medicaid inpatient day for ~~the~~ calendar year 44318
~~preceding the fiscal year in which the rate will be paid 2005,~~ 44319
adjusted annually by the inflation rate estimated under division 44320
~~(C)(D)(1)~~ of this section. In determining the ~~maximum~~ rate for 44321
each peer group, the department shall ~~exclude~~ do both of the 44322
following: 44323

(1) Use the greater of each nursing facility's actual 44324
inpatient days for calendar year 2005 or the inpatient days the 44325
facility would have had for calendar year 2005 if its occupancy 44326
rate had been ninety per cent; 44327

(2) Exclude from its calculations both of the following: 44328

(a) Facilities in the group that participated in the ~~medieal~~ 44329
~~assistance~~ medicaid program under the same ~~operator~~ provider for 44330
less than twelve months in ~~the~~ calendar year ~~preceding the fiscal~~ 44331
~~year in which the rate will be paid 2005;~~ 44332

(b) Facilities in the group whose ~~indirect care~~ ancillary and 44333
support costs are more than ~~three~~ one standard ~~deviations~~ 44334
deviation from the mean desk-reviewed, actual, allowable, per diem 44335
~~indirect care~~ ancillary and support cost for all nursing 44336
facilities in the group for ~~the~~ calendar year ~~preceding the fiscal~~ 44337
~~year in which the rate will be paid 2005.~~ 44338

~~(2) For fiscal years that end in odd numbered calendar (B)~~ 44339
Beginning in fiscal year 2010 and every three years thereafter, 44340
the ~~maximum rate~~ department shall recalculate the rate for 44341
ancillary and support costs for each peer group is the group's 44342
maximum rate for the previous fiscal year, adjusted for the 44343
inflation rate estimated under division (C)(2) of this section. 44344
The rate shall be calculated as under division (A) of this 44345
section, except that references to calendar year 2005 in that 44346
division shall be deemed to be references to the calendar year 44347

preceding the fiscal year for which the rate will be paid. 44348

~~(3)(C)~~ The department shall not recalculate a ~~maximum~~ rate 44349
for ~~indirect care ancillary and support~~ costs under division (A) 44350
or (B)~~(1) or (2)~~ of this section based on additional information 44351
that it receives after the ~~maximum~~ rate is set. The department 44352
shall recalculate the ~~maximum~~ rate for ~~indirect care ancillary and~~ 44353
support costs only if it made an error in computing the ~~maximum~~ 44354
rate based on the information available at the time of the 44355
original calculation. 44356

~~(C)(1) When adjusting rates for inflation under divisions (A)~~ 44357
~~and (B)(1) of this section, the department shall estimate the rate~~ 44358
~~of inflation for the eighteen-month period beginning on the first~~ 44359
~~day of July of the calendar year preceding the fiscal year in~~ 44360
~~which the rate will be paid and ending on the thirty first day of~~ 44361
~~December of the fiscal year in which the rate will be paid, using~~ 44362
~~the consumer price index for all items for all urban consumers for~~ 44363
~~the north central region, published by the United States bureau of~~ 44364
~~labor statistics.~~ 44365

~~(2)(D)(1)~~ When annually adjusting rates for inflation under 44366
~~division (B)(2) of this section, the department shall estimate the~~ 44367
rate of inflation for the twelve-month period beginning on the 44368
first day of January preceding the fiscal year in which the rate 44369
will be paid and ending on the thirty-first day of December of the 44370
fiscal year in which the rate will be paid, using the consumer 44371
price index for ~~all items for all urban consumers~~ nursing homes 44372
for the north central region, published by the United States 44373
bureau of labor statistics. 44374

~~(3)(2)~~ If an inflation rate estimated under division 44375
~~(C)(D)(1) or (2)~~ of this section is different from the actual 44376
inflation rate for the relevant time period, as measured using the 44377
same index, the difference shall be added to or subtracted from 44378
the inflation rate estimated for the same purpose pursuant to this 44379

division for the following fiscal year. 44380

~~(D)~~(E) The director of job and family services shall adopt 44381
~~rules in accordance with Chapter 119. of the Revised Code that~~ 44382
~~specify use peer groups of nursing facilities based on findings of~~ 44383
~~significant per diem indirect care cost differences due to~~ 44384
~~geography and facility bed size. The rules also may specify peer~~ 44385
~~groups based on findings of significant per diem indirect care~~ 44386
~~cost differences due to other factors~~ for the purpose of this 44387
section that are the same as the peer groups specified in rules 44388
that were authorized by this section as this section existed on 44389
the day before the effective date of this amendment and were in 44390
effect on January 1, 2004, except that nursing facilities located 44391
in Ottawa, Erie, Morrow, Union, or Preble counties shall be added 44392
to the metropolitan statistical area peer group specified in those 44393
rules. 44394

Sec. 5111.241. (A) The department of job and family services 44395
shall pay a provider for each of the provider's eligible 44396
intermediate care ~~facility~~ facilities for the mentally retarded a 44397
per resident per day rate for indirect care costs established 44398
prospectively each fiscal year for each facility. The rate for 44399
each intermediate care facility for the mentally retarded shall be 44400
the sum of the following, but shall not exceed the maximum rate 44401
established for the facility's peer group under division (B) of 44402
this section: 44403

(1) The facility's desk-reviewed, actual, allowable, per diem 44404
indirect care costs from the calendar year preceding the fiscal 44405
year in which the rate will be paid, adjusted for the inflation 44406
rate estimated under division (C)(1) of this section; 44407

(2) An efficiency incentive in the following amount: 44408

(a) For fiscal years ending in even-numbered calendar years: 44409

(i) In the case of intermediate care facilities for the 44410
mentally retarded with more than eight beds, seven and one-tenth 44411
per cent of the maximum rate established for the facility's peer 44412
group under division (B) of this section; 44413

(ii) In the case of intermediate care facilities for the 44414
mentally retarded with eight or fewer beds, seven per cent of the 44415
maximum rate established for the facility's peer group under 44416
division (B) of this section; 44417

(b) For fiscal years ending in odd-numbered calendar years, 44418
the amount calculated for the preceding fiscal year under division 44419
(A)(2)(a) of this section. 44420

(B)(1) The maximum rate for indirect care costs for each peer 44421
group of intermediate care facilities for the mentally retarded 44422
with more than eight beds specified in rules adopted under 44423
division (D) of this section shall be determined as follows: 44424

(a) For fiscal years ending in even-numbered calendar years, 44425
the maximum rate for each peer group shall be the rate that is no 44426
less than twelve and four-tenths per cent above the median 44427
desk-reviewed, actual, allowable, per diem indirect care cost for 44428
all intermediate care facilities for the mentally retarded with 44429
more than eight beds in the group, excluding facilities in the 44430
group whose indirect care costs for that period are more than 44431
three standard deviations from the mean desk-reviewed, actual, 44432
allowable, per diem indirect care cost for all intermediate care 44433
facilities for the mentally retarded with more than eight beds, 44434
for the calendar year preceding the fiscal year in which the rate 44435
will be paid, adjusted by the inflation rate estimated under 44436
division (C)(1) of this section. 44437

(b) For fiscal years ending in odd-numbered calendar years, 44438
the maximum rate for each peer group is the group's maximum rate 44439
for the previous fiscal year, adjusted for the inflation rate 44440

estimated under division (C)(2) of this section. 44441

(2) The maximum rate for indirect care costs for each peer 44442
group of intermediate care facilities for the mentally retarded 44443
with eight or fewer beds specified in rules adopted under division 44444
(D) of this section shall be determined as follows: 44445

(a) For fiscal years ending in even-numbered calendar years, 44446
the maximum rate for each peer group shall be the rate that is no 44447
less than ten and three-tenths per cent above the median 44448
desk-reviewed, actual, allowable, per diem indirect care cost for 44449
all intermediate care facilities for the mentally retarded with 44450
eight or fewer beds in the group, excluding facilities in the 44451
group whose indirect care costs are more than three standard 44452
deviations from the mean desk-reviewed, actual, allowable, per 44453
diem indirect care cost for all intermediate care facilities for 44454
the mentally retarded with eight or fewer beds, for the calendar 44455
year preceding the fiscal year in which the rate will be paid, 44456
adjusted by the inflation rate estimated under division (C)(1) of 44457
this section. 44458

(b) For fiscal years that end in odd-numbered calendar years, 44459
the maximum rate for each peer group is the group's maximum rate 44460
for the previous fiscal year, adjusted for the inflation rate 44461
estimated under division (C)(2) of this section. 44462

(3) The department shall not recalculate a maximum rate for 44463
indirect care costs under division (B)(1) or (2) of this section 44464
based on additional information that it receives after the maximum 44465
rate is set. The department shall recalculate the maximum rate for 44466
indirect care costs only if it made an error in computing the 44467
maximum rate based on the information available at the time of the 44468
original calculation. 44469

(C)(1) When adjusting rates for inflation under divisions 44470
(A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department 44471

shall estimate the rate of inflation for the eighteen-month period 44472
beginning on the first day of July of the calendar year preceding 44473
the fiscal year in which the rate will be paid and ending on the 44474
thirty-first day of December of the fiscal year in which the rate 44475
will be paid, using the consumer price index for all items for all 44476
urban consumers for the north central region, published by the 44477
United States bureau of labor statistics. 44478

(2) When adjusting rates for inflation under divisions 44479
(B)(1)(b) and (B)(2)(b) of this section, the department shall 44480
estimate the rate of inflation for the twelve-month period 44481
beginning on the first day of January of the fiscal year preceding 44482
the fiscal year in which the rate will be paid and ending on the 44483
thirty-first day of December of the fiscal year in which the rate 44484
will be paid, using the consumer price index for all items for all 44485
urban consumers for the north central region, published by the 44486
United States bureau of labor statistics. 44487

(3) If an inflation rate estimated under division (C)(1) or 44488
(2) of this section is different from the actual inflation rate 44489
for the relevant time period, as measured using the same index, 44490
the difference shall be added to or subtracted from the inflation 44491
rate estimated pursuant to this division for the following fiscal 44492
year. 44493

(D) The director of job and family services shall adopt rules 44494
~~in accordance with Chapter 119.~~ under section 5111.02 of the 44495
Revised Code that specify peer groups of intermediate care 44496
facilities for the mentally retarded with more than eight beds, 44497
and peer groups of intermediate care facilities for the mentally 44498
retarded with eight or fewer beds, based on findings of 44499
significant per diem indirect care cost differences due to 44500
geography and facility bed-size. The rules also may specify peer 44501
groups based on findings of significant per diem indirect care 44502
cost differences due to other factors, including case-mix. 44503

Sec. 5111.242. The department of job and family services 44504
shall pay each eligible nursing facility a per resident per day 44505
rate equal to the desk-reviewed, actual, allowable taxes imposed 44506
under Chapter 5751. of the Revised Code, real estate taxes, 44507
personal property taxes, and corporate franchise taxes the nursing 44508
facility paid during the calendar year preceding the fiscal year 44509
for which the payment is made divided by the number of inpatient 44510
days the facility would have had had its occupancy rate been one 44511
hundred per cent during that calendar year. 44512

Sec. 5111.25. (A) The department of job and family services 44513
shall pay a provider for each of the provider's eligible nursing 44514
facility facilities a per resident per day rate for its reasonable 44515
capital costs established prospectively each fiscal year for each 44516
facility. Except as otherwise provided in sections 5111.20 to 44517
~~5111.32~~ 5111.33 of the Revised Code, the rate shall be based on 44518
the facility's capital costs for the calendar year preceding the 44519
fiscal year in which the rate will be paid. The rate shall equal 44520
the sum of divisions (A)(1) ~~to (3)~~ and (2) of this section: 44521

(1) The lesser of the following: 44522

(a) ~~Eighty eight and sixty five one hundredths~~ Ninety-five 44523
per cent of the facility's desk-reviewed, actual, allowable, per 44524
diem ~~cost of ownership and eighty five per cent of the facility's~~ 44525
~~actual, allowable, per diem cost of nonextensive renovation~~ 44526
~~determined under division (F) of this section~~ capital costs; 44527

(b) ~~Eighty eight and sixty five one hundredths per cent of~~ 44528
~~the~~ The following limitation: 44529

(i) ~~For the fiscal year beginning July 1, 1993~~ years 2007 and 44530
2008, sixteen twenty dollars and two cents per resident day; 44531

(ii) ~~For the fiscal year beginning July 1, 1994, sixteen~~ 44532
~~dollars per resident day, adjusted to reflect the rate of~~ 44533

~~inflation for the twelve month period beginning July 1, 1992, and 44534
ending June 30, 1993, using the consumer price index for shelter 44535
costs for all urban consumers for the north central region, 44536
published by the United States bureau of labor statistics; 44537~~

(iii) For subsequent fiscal years, the limitation in effect 44538
during the previous fiscal year, adjusted to reflect the rate of 44539
inflation for the twelve-month period beginning on the first day 44540
of July for the calendar year preceding the calendar year that 44541
precedes the fiscal year and ending on the following thirtieth day 44542
of June, using the consumer price index for shelter costs for all 44543
urban consumers for the north central region, published by the 44544
United States bureau of labor statistics. 44545

(2) Any efficiency incentive determined under division (D) of 44546
this section; 44547

~~(3) Any amounts for return on equity determined under 44548
division (H) of this section. 44549~~

Buildings shall be depreciated using the straight line method 44550
over forty years or over a different period approved by the 44551
department. Components and equipment shall be depreciated using 44552
the straight-line method over a period designated in rules adopted 44553
~~by the director of job and family services in accordance with 44554~~
~~Chapter 119. section 5111.02 of the Revised Code, consistent 44555~~
with the guidelines of the American hospital association, or over 44556
a different period approved by the department. Any rules ~~adopted 44557~~
~~under authorized by this division that specify useful lives of 44558~~
buildings, components, or equipment apply only to assets acquired 44559
on or after July 1, 1993. Depreciation for costs paid or 44560
reimbursed by any government agency shall not be included in ~~cost 44561~~
~~of ownership or renovation capital costs unless that part of the 44562~~
payment under sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised 44563
Code is used to reimburse the government agency. 44564

(B) The capital cost basis of nursing facility assets shall 44565
be determined in the following manner: 44566

~~(1) For purposes of calculating the rate to be paid for the 44567
fiscal year beginning July 1, 1993, for facilities with dates of 44568
licensure on or before June 30, 1993, the capital cost basis shall 44569
be equal to the following: 44570~~

~~(a) For facilities that have not had a change of ownership 44571
during the period beginning January 1, 1993, and ending June 30, 44572
1993, the desk reviewed, actual, allowable capital cost basis that 44573
is listed on the facility's cost report for the cost reporting 44574
period ending December 31, 1992, plus the actual, allowable 44575
capital cost basis of any assets constructed or acquired after 44576
December 31, 1992, but before July 1, 1993, if the aggregate 44577
capital costs of those assets would increase the facility's rate 44578
for capital costs by twenty or more cents per resident per day. 44579~~

~~(b) For facilities that have a date of licensure or had a 44580
change of ownership during the period beginning January 1, 1993, 44581
and ending June 30, 1993, the actual, allowable capital cost basis 44582
of the person or government entity that owns the facility on June 44583
30, 1993. 44584~~

~~Capital cost basis shall be calculated as provided in 44585
division (B)(1) of this section subject to approval by the United 44586
States health care financing administration of any necessary 44587
amendment to the state plan for providing medical assistance. 44588~~

~~The department shall include the actual, allowable capital 44589
cost basis of assets constructed or acquired during the period 44590
beginning January 1, 1993, and ending June 30, 1993, in the 44591
calculation for the facility's rate effective July 1, 1993, if the 44592
aggregate capital costs of the assets would increase the 44593
facility's rate by twenty or more cents per resident per day and 44594
the facility provides the department with sufficient documentation 44595~~

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,
capital cost basis that is listed on the facility's cost report
for the calendar year preceding the fiscal year during which the
rate will be paid.

~~(3)~~(2) For facilities with dates of licensure after June 30,
1993, the capital cost basis shall be determined in accordance
with the principles 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, except as otherwise provided in sections
5111.20 to ~~5111.32~~ 5111.33 of the Revised Code.

~~(4)~~(3) Except as provided in division (B)~~(5)~~(4) of this
section, if a provider transfers an interest in a facility to
another provider after June 30, 1993, there shall be no increase
in the capital cost basis of the asset if the providers are
related parties or the provider to which the interest is
transferred authorizes the provider that transferred the interest
to continue to operate the facility under a lease, management
agreement, or other arrangement. If the ~~providers are not related~~
~~parties or if they are related parties and division (B)(5) of this~~
~~section requires~~ previous sentence does not prohibit the
adjustment of the capital cost basis under this division, the
basis of the asset shall be adjusted by the lesser of the
following:

(a) One-half of the change in construction costs during the 44628
time that the transferor held the asset, as calculated by the 44629
department of job and family services using the "Dodge building 44630
cost indexes, northeastern and north central states," published by 44631
Marshall and Swift; 44632

(b) One-half of the change in the consumer price index for 44633
all items for all urban consumers, as published by the United 44634
States bureau of labor statistics, during the time that the 44635
transferor held the asset. 44636

~~(5)(4)~~ If a provider transfers an interest in a facility to 44637
another provider who is a related party, the capital cost basis of 44638
the asset shall be adjusted as specified in division (B)~~(4)(3)~~ of 44639
this section ~~for a transfer to a provider that is not a related~~ 44640
~~party~~ if all of the following conditions are met: 44641

(a) The related party is a relative of owner; 44642

(b) Except as provided in division (B)~~(5)(4)~~(c)(ii) of this 44643
section, the provider making the transfer retains no ownership 44644
interest in the facility; 44645

(c) The department of job and family services determines that 44646
the transfer is an arm's length transaction pursuant to rules ~~the~~ 44647
~~department shall adopt in accordance with Chapter 119. adopted~~ 44648
under section 5111.02 of the Revised Code ~~no later than December~~ 44649
~~31, 2000~~. The rules shall provide that a transfer is an arm's 44650
length transaction if all of the following apply: 44651

(i) Once the transfer goes into effect, the provider that 44652
made the transfer has no direct or indirect interest in the 44653
provider that acquires the facility or the facility itself, 44654
including interest as an owner, officer, director, employee, 44655
independent contractor, or consultant, but excluding interest as a 44656
creditor. 44657

(ii) The provider that made the transfer does not reacquire 44658
an interest in the facility except through the exercise of a 44659
creditor's rights in the event of a default. If the provider 44660
reacquires an interest in the facility in this manner, the 44661
department shall treat the facility as if the transfer never 44662
occurred when the department calculates its reimbursement rates 44663
for capital costs. 44664

(iii) The transfer satisfies any other criteria specified in 44665
the rules. 44666

(d) Except in the case of hardship caused by a catastrophic 44667
event, as determined by the department, or in the case of a 44668
provider making the transfer who is at least sixty-five years of 44669
age, not less than twenty years have elapsed since, for the same 44670
facility, the capital cost basis was adjusted most recently under 44671
division (B)(~~5~~)(4) of this section or actual, allowable cost of 44672
ownership was determined most recently under division (C)(9) of 44673
this section. 44674

(C) As used in this division, ~~"lease:~~ 44675

"Imputed interest" means the lesser of the prime rate plus 44676
two per cent or ten per cent. 44677

"Lease expense" means lease payments in the case of an 44678
operating lease and depreciation expense and interest expense in 44679
the case of a capital lease. ~~As used in this division, "new~~ 44680

"New lease" means a lease, to a different lessee, of a 44681
nursing facility that previously was operated under a lease. 44682

(1) Subject to the limitation specified in division (A)(1) of 44683
this section, for a lease of a facility that was effective on May 44684
27, 1992, the entire lease expense is an actual, allowable capital 44685
~~cost of ownership~~ during the term of the existing lease. The 44686
entire lease expense also is an actual, allowable capital cost ~~of~~ 44687

ownership if a lease in existence on May 27, 1992, is renewed 44688
under either of the following circumstances: 44689

(a) The renewal is pursuant to a renewal option that was in 44690
existence on May 27, 1992; 44691

(b) The renewal is for the same lease payment amount and 44692
between the same parties as the lease in existence on May 27, 44693
1992. 44694

(2) Subject to the limitation specified in division (A)(1) of 44695
this section, for a lease of a facility that was in existence but 44696
not operated under a lease on May 27, 1992, actual, allowable ~~cost~~ 44697
~~of ownership~~ capital costs shall include the lesser of the annual 44698
lease expense or the annual depreciation expense and imputed 44699
interest expense that would be calculated at the inception of the 44700
lease using the lessor's entire historical capital asset cost 44701
basis, adjusted by the lesser of the following amounts: 44702

(a) One-half of the change in construction costs during the 44703
time the lessor held each asset until the beginning of the lease, 44704
as calculated by the department using the "Dodge building cost 44705
indexes, northeastern and north central states," published by 44706
Marshall and Swift; 44707

(b) One-half of the change in the consumer price index for 44708
all items for all urban consumers, as published by the United 44709
States bureau of labor statistics, during the time the lessor held 44710
each asset until the beginning of the lease. 44711

(3) Subject to the limitation specified in division (A)(1) of 44712
this section, for a lease of a facility with a date of licensure 44713
on or after May 27, 1992, that is initially operated under a 44714
lease, actual, allowable ~~cost of ownership~~ capital costs shall 44715
include the annual lease expense if there was a substantial 44716
commitment of money for construction of the facility after 44717
December 22, 1992, and before July 1, 1993. If there was not a 44718

substantial commitment of money after December 22, 1992, and 44719
before July 1, 1993, actual, allowable ~~cost-of-ownership~~ capital 44720
costs shall include the lesser of the annual lease expense or the 44721
sum of the following: 44722

(a) The annual depreciation expense that would be calculated 44723
at the inception of the lease using the lessor's entire historical 44724
capital asset cost basis; 44725

(b) The greater of the lessor's actual annual amortization of 44726
financing costs and interest expense at the inception of the lease 44727
or the imputed interest expense calculated at the inception of the 44728
lease using seventy per cent of the lessor's historical capital 44729
asset cost basis. 44730

(4) Subject to the limitation specified in division (A)(1) of 44731
this section, for a lease of a facility with a date of licensure 44732
on or after May 27, 1992, that was not initially operated under a 44733
lease and has been in existence for ten years, actual, allowable 44734
~~cost-of-ownership~~ capital costs shall include the lesser of the 44735
annual lease expense or the annual depreciation expense and 44736
imputed interest expense that would be calculated at the inception 44737
of the lease using the entire historical capital asset cost basis 44738
of the lessor, adjusted by the lesser of the following: 44739

(a) One-half of the change in construction costs during the 44740
time the lessor held each asset until the beginning of the lease, 44741
as calculated by the department using the "Dodge building cost 44742
indexes, northeastern and north central states," published by 44743
Marshall and Swift; 44744

(b) One-half of the change in the consumer price index for 44745
all items for all urban consumers, as published by the United 44746
States bureau of labor statistics, during the time the lessor held 44747
each asset until the beginning of the lease. 44748

(5) Subject to the limitation specified in division (A)(1) of 44749

this section, for a new lease of a facility that was operated 44750
under a lease on May 27, 1992, actual, allowable ~~cost-of-ownership~~ 44751
capital costs shall include the lesser of the annual new lease 44752
expense or the annual old lease payment. If the old lease was in 44753
effect for ten years or longer, the old lease payment from the 44754
beginning of the old lease shall be adjusted by the lesser of the 44755
following: 44756

(a) One-half of the change in construction costs from the 44757
beginning of the old lease to the beginning of the new lease, as 44758
calculated by the department using the "Dodge building cost 44759
indexes, northeastern and north central states," published by 44760
Marshall and Swift; 44761

(b) One-half of the change in the consumer price index for 44762
all items for all urban consumers, as published by the United 44763
States bureau of labor statistics, from the beginning of the old 44764
lease to the beginning of the new lease. 44765

(6) Subject to the limitation specified in division (A)(1) of 44766
this section, for a new lease of a facility that was not in 44767
existence or that was in existence but not operated under a lease 44768
on May 27, 1992, actual, allowable ~~cost-of-ownership~~ capital costs 44769
shall include the lesser of annual new lease expense or the annual 44770
amount calculated for the old lease under division (C)(2), (3), 44771
(4), or (6) of this section, as applicable. If the old lease was 44772
in effect for ten years or longer, the lessor's historical capital 44773
asset cost basis shall be adjusted by the lesser of the following 44774
for purposes of calculating the annual amount under division 44775
(C)(2), (3), (4), or (6) of this section: 44776

(a) One-half of the change in construction costs from the 44777
beginning of the old lease to the beginning of the new lease, as 44778
calculated by the department using the "Dodge building cost 44779
indexes, northeastern and north central states," published by 44780

Marshall and Swift; 44781

(b) One-half of the change in the consumer price index for 44782
all items for all urban consumers, as published by the United 44783
States bureau of labor statistics, from the beginning of the old 44784
lease to the beginning of the new lease. 44785

In the case of a lease under division (C)(3) of this section 44786
of a facility for which a substantial commitment of money was made 44787
after December 22, 1992, and before July 1, 1993, the old lease 44788
payment shall be adjusted for the purpose of determining the 44789
annual amount. 44790

(7) For any revision of a lease described in division (C)(1), 44791
(2), (3), (4), (5), or (6) of this section, or for any subsequent 44792
lease of a facility operated under such a lease, other than 44793
execution of a new lease, the portion of actual, allowable ~~cost of~~ 44794
~~ownership~~ capital costs attributable to the lease shall be the 44795
same as before the revision or subsequent lease. 44796

(8) Except as provided in division (C)(9) of this section, if 44797
a provider leases an interest in a facility to another provider 44798
who is a related party or previously operated the facility, the 44799
related party's or previous operator's actual, allowable ~~cost of~~ 44800
~~ownership~~ capital costs shall include the lesser of the annual 44801
lease expense or the reasonable cost to the lessor. 44802

(9) If a provider leases an interest in a facility to another 44803
provider who is a related party, regardless of the date of the 44804
lease, the related party's actual, allowable ~~cost of ownership~~ 44805
capital costs shall include the annual lease expense, subject to 44806
the limitations specified in divisions (C)(1) to (7) of this 44807
section, if all of the following conditions are met: 44808

(a) The related party is a relative of owner; 44809

(b) If the lessor retains an ownership interest, it is, 44810

except as provided in division (C)(9)(c)(ii) of this section, in 44811
only the real property and any improvements on the real property; 44812

(c) The department of job and family services determines that 44813
the lease is an arm's length transaction pursuant to rules ~~the~~ 44814
~~department shall adopt in accordance with Chapter 119. adopted~~ 44815
under section 5111.02 of the Revised Code ~~no later than December~~ 44816
~~31, 2000~~. The rules shall provide that a lease is an arm's length 44817
transaction if all of the following apply: 44818

(i) Once the lease goes into effect, the lessor has no direct 44819
or indirect interest in the lessee or, except as provided in 44820
division (C)(9)(b) of this section, the facility itself, including 44821
interest as an owner, officer, director, employee, independent 44822
contractor, or consultant, but excluding interest as a lessor. 44823

(ii) The lessor does not reacquire an interest in the 44824
facility except through the exercise of a lessor's rights in the 44825
event of a default. If the lessor reacquires an interest in the 44826
facility in this manner, the department shall treat the facility 44827
as if the lease never occurred when the department calculates its 44828
reimbursement rates for capital costs. 44829

(iii) The lease satisfies any other criteria specified in the 44830
rules. 44831

(d) Except in the case of hardship caused by a catastrophic 44832
event, as determined by the department, or in the case of a lessor 44833
who is at least sixty-five years of age, not less than twenty 44834
years have elapsed since, for the same facility, the capital cost 44835
basis was adjusted most recently under division (B)(5) of this 44836
section or actual, allowable ~~cost of ownership was~~ capital costs 44837
were determined most recently under division (C)(9) of this 44838
section. 44839

(10) This division does not apply to leases of specific items 44840
of equipment. 44841

(D)(1) Subject to division (D)(2) of this section, the department shall pay a provider for each of the provider's eligible nursing facility facilities an efficiency incentive that is equal to fifty per cent of the difference between the following:

(a) ~~Eighty-eight and sixty-five one-hundredths~~ Ninety-five per cent of the facility's desk-reviewed, actual, allowable, per diem ~~cost of ownership~~ capital costs;

(b) ~~The applicable amount specified in division (E) of this section~~ Ten dollars per resident per day.

(2) The efficiency incentive paid to a nursing facility shall not exceed ~~the greater of the following:~~

(a) ~~The efficiency incentive the facility was paid during the fiscal year ending June 30, 1994;~~

(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.~~

(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.~~

(E) ~~The following amounts shall be used to calculate efficiency incentives for nursing facilities under this section:~~

(1) For facilities with dates of licensure prior to January 1, 1958, four dollars and twenty four cents per patient day;	44872
	44873
(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968:	44874
	44875
(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;	44876
	44877
	44878
(b) Four dollars and twenty four cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.	44879
	44880
	44881
(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976:	44882
	44883
(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;	44884
	44885
	44886
(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;	44887
	44888
	44889
	44890
(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.	44891
	44892
	44893
(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979:	44894
	44895
(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;	44896
	44897
	44898
(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	44899
	44900
	44901

dollars per bed;	44902
(c) Five dollars and twenty four cents per patient day if the	44903
cost of construction was five thousand one hundred fifty dollars	44904
or less per bed, but exceeded three thousand five hundred dollars	44905
per bed;	44906
(d) Four dollars and twenty four cents per patient day if the	44907
cost of construction was three thousand five hundred dollars or	44908
less per bed.	44909
(5) For facilities with dates of licensure after December 31,	44910
1978, but prior to January 1, 1981;	44911
(a) Seven dollars and seventy four cents per patient day if	44912
the cost of construction was seven thousand six hundred	44913
twenty five dollars or more per bed;	44914
(b) Seven dollars and twenty four cents per patient day if	44915
the cost of construction was less than seven thousand six hundred	44916
twenty five dollars per bed but exceeded six thousand eight	44917
hundred dollars per bed;	44918
(c) Six dollars and twenty four cents per patient day if the	44919
cost of construction was six thousand eight hundred dollars or	44920
less per bed but exceeded five thousand one hundred fifty dollars	44921
per bed;	44922
(d) Five dollars and twenty four cents per patient day if the	44923
cost of construction was five thousand one hundred fifty dollars	44924
or less but exceeded three thousand five hundred dollars per bed;	44925
(e) Four dollars and twenty four cents per patient day if the	44926
cost of construction was three thousand five hundred dollars or	44927
less per bed.	44928
(6) For facilities with dates of licensure in 1981 or any	44929
year thereafter prior to December 22, 1992, the following amount:	44930
(a) For facilities with construction costs less than seven	44931

~~thousand six hundred twenty five dollars per bed, the applicable~~ 44932
~~amounts for the construction costs specified in divisions~~ 44933
~~(E)(5)(b) to (c) of this section;~~ 44934

~~(b) For facilities with construction costs of seven thousand~~ 44935
~~six hundred twenty five dollars or more per bed, six dollars per~~ 44936
~~patient day, provided that for 1981 and annually thereafter prior~~ 44937
~~to December 22, 1992, department shall do both of the following to~~ 44938
~~the six dollar amount:~~ 44939

~~(i) Adjust the amount for fluctuations in construction costs~~ 44940
~~calculated by the department using the "Dodge building cost~~ 44941
~~indexes, northeastern and north central states," published by~~ 44942
~~Marshall and Swift, using 1980 as the base year;~~ 44943

~~(ii) Increase the amount, as adjusted for inflation under~~ 44944
~~division (E)(6)(b)(i) of this section, by one dollar and~~ 44945
~~seventy four cents.~~ 44946

~~(7) For facilities with dates of licensure on or after~~ 44947
~~January 1, 1992, seven dollars and ninety seven cents, adjusted~~ 44948
~~for fluctuations in construction costs between 1991 and 1993 as~~ 44949
~~calculated by the department using the "Dodge building cost~~ 44950
~~indexes, northeastern and north central states," published by~~ 44951
~~Marshall and Swift, and then increased by one dollar and~~ 44952
~~seventy four cents.~~ 44953

~~For the fiscal year that begins July 1, 1994, each of the~~ 44954
~~amounts listed in divisions (E)(1) to (7) of this section shall be~~ 44955
~~increased by twenty five cents. For the fiscal year that begins~~ 44956
~~July 1, 1995, each of those amounts shall be increased by an~~ 44957
~~additional twenty five cents. For subsequent fiscal years, each of~~ 44958
~~those amounts, as increased for the prior fiscal year, shall be~~ 44959
~~adjusted to reflect the rate of inflation for the twelve month~~ 44960
~~period beginning on the first day of July of the calendar year~~ 44961
~~preceding the calendar year that precedes the fiscal year and~~ 44962

~~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.~~

~~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,
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 44994
director of health has granted a certificate of need for the 44995
renovation under section 3702.52 of the Revised Code. The provider 44996
shall submit a plan that describes in detail the changes in 44997
capital assets to be accomplished by means of the renovation and 44998
the timetable for completing the project. The time for completion 44999
of the project shall be no more than eighteen months after the 45000
renovation begins. The department of job and family services shall 45001
adopt rules in accordance with Chapter 119. of the Revised Code 45002
that specify criteria and procedures for prior approval of 45003
renovation projects. No provider shall separate a project with the 45004
intent to evade the characterization of the project as a 45005
renovation or as an extensive renovation. No provider shall 45006
increase the scope of a project after it is approved by the 45007
department of job and family services unless the increase in scope 45008
is approved by the department. 45009

~~(2) The payment provided for in this division is the only 45010
payment that shall be made for the costs of a nonextensive 45011
renovation. Nonextensive renovation costs shall not be included in 45012
costs of ownership, and a nonextensive renovation shall not affect 45013
the date of licensure for purposes of calculating the efficiency 45014
incentive under divisions (D) and (E) of this section. 45015~~

~~(G) The owner (E) A provider of a nursing facility operating 45016
under a provider agreement shall provide written notice to the 45017
department of job and family services at least forty-five days 45018
prior to entering into any contract of sale for the facility or 45019
voluntarily terminating participation in the medical assistance 45020
medicaid program. After the date on which a transaction of sale is 45021
closed, the ~~owner~~ provider shall refund to the department the 45022
amount of excess depreciation paid to the provider for the 45023
facility by the department for each year the ~~owner~~ provider has 45024
operated the facility under a provider agreement and prorated 45025~~

according to the number of medicaid patient days for which the 45026
faecility provider has received payment for the facility. If a 45027
nursing facility is sold after five or fewer years of operation 45028
under a provider agreement, the refund to the department shall be 45029
equal to the excess depreciation paid to the provider for the 45030
facility. If a nursing facility is sold after more than five years 45031
but less than ten years of operation under a provider agreement, 45032
the refund to the department shall equal the excess depreciation 45033
paid to the provider for the facility multiplied by twenty per 45034
cent, multiplied by the difference between ten and the number of 45035
years that the facility was operated under a provider agreement. 45036
If a nursing facility is sold after ten or more years of operation 45037
under a provider agreement, the ~~owner~~ provider shall not refund 45038
any excess depreciation to the department. The ~~owner~~ provider of a 45039
facility that is sold or that voluntarily terminates participation 45040
in the ~~medical-assistance~~ medicaid program also shall refund any 45041
other amount that the department properly finds to be due after 45042
the audit conducted under this division. For the purposes of this 45043
division, "depreciation paid to the provider for the facility" 45044
means the amount paid to the provider for the nursing facility for 45045
~~cost of ownership~~ capital costs pursuant to this section less any 45046
amount paid for interest costs, amortization of financing costs, 45047
and lease expenses. For the purposes of this division, "excess 45048
depreciation" is the nursing facility's depreciated basis, which 45049
is the ~~owner's~~ provider's cost less accumulated depreciation, 45050
subtracted from the purchase price net of selling costs but not 45051
exceeding the amount of depreciation paid to the provider for the 45052
facility. 45053

A cost report shall be filed with the department within 45054
ninety days after the date on which the transaction of sale is 45055
closed or participation is voluntarily terminated. The report 45056
shall show the accumulated depreciation, the sales price, and 45057
other information required by the department. The department shall 45058

provide for a bank, trust company, or savings and loan association 45059
to hold in escrow the amount of the last two monthly payments to a 45060
provider of a nursing facility made pursuant to division (A)(1) of 45061
section 5111.22 of the Revised Code before a sale or termination 45062
of participation or, if the ~~owner~~ provider fails, within the time 45063
required by this division, to notify the department before 45064
entering into a contract of sale for the facility, the amount of 45065
the first two monthly payments made to the provider for the 45066
facility after the department learns of the contract, regardless 45067
of whether a new owner is in possession of the facility. If the 45068
amount the ~~owner~~ provider will be required to refund under this 45069
section is likely to be less than the amount of the two monthly 45070
payments otherwise put into escrow under this division, the 45071
department shall take one of the following actions instead of 45072
withholding the amount of the two monthly payments: 45073

(1) In the case of an ~~owner~~ a provider that owns other 45074
facilities that participate in the ~~medical assistance~~ medicaid 45075
program, obtain a promissory note in an amount sufficient to cover 45076
the amount likely to be refunded; 45077

(2) In the case of all other ~~owners~~ providers, withhold the 45078
amount of the last monthly payment to the provider for the nursing 45079
facility or, if the ~~owner~~ provider fails, within the time required 45080
by this division, to notify the department before entering into a 45081
contract of sale for the facility, the amount of the first monthly 45082
payment made to the provider for the facility after the department 45083
learns of the contract, regardless of whether a new owner is in 45084
possession of the facility. 45085

The department shall, within ninety days following the filing 45086
of the cost report, audit the cost report and issue an audit 45087
report to the ~~owner~~ provider. The department also may audit any 45088
other cost report that the ~~facility~~ provider has filed during the 45089
previous three years for the facility. In the audit report, the 45090

department shall state its findings and the amount of any money 45091
owed to the department by the ~~nursing facility~~ provider. The 45092
findings shall be subject to adjudication conducted in accordance 45093
with Chapter 119. of the Revised Code. No later than fifteen days 45094
after the ~~owner~~ provider agrees to a settlement, any funds held in 45095
escrow less any amounts due to the department shall be released to 45096
the ~~owner~~ provider and amounts due to the department shall be paid 45097
to the department. If the amounts in escrow are less than the 45098
amounts due to the department, the balance shall be paid to the 45099
department within fifteen days after the ~~owner~~ provider agrees to 45100
a settlement. If the department does not issue its audit report 45101
within the ninety-day period, the department shall release any 45102
money held in escrow to the ~~owner~~ provider. For the purposes of 45103
this section, a transfer of corporate stock, the merger of one 45104
corporation into another, or a consolidation does not constitute a 45105
sale. Also, a change of ownership, lease, or termination of a 45106
lease of real or personal property associated with a nursing 45107
facility does not constitute a sale if there is no change in the 45108
operator of the facility. 45109

If a nursing facility is not sold or its participation is not 45110
terminated after notice is provided to the department under this 45111
division, the department shall order any payments held in escrow 45112
released to the ~~facility~~ provider upon receiving written notice 45113
from the ~~owner~~ provider that there will be no sale or termination. 45114
After written notice is received from a ~~nursing facility~~ provider 45115
that a sale or termination will not take place, the ~~facility~~ 45116
provider shall provide notice to the department at least 45117
forty-five days prior to entering into any contract of sale or 45118
terminating participation at any future time. 45119

~~(H) The department shall pay each eligible proprietary 45120
nursing facility a return on the facility's net equity computed at 45121
the rate of one and one half times the average interest rate on 45122~~

~~special issues of public debt obligations issued to the federal
hospital insurance trust fund for the cost reporting period,
except that no facility's return on net equity shall exceed fifty
cents per patient day.~~

~~When calculating the rate for return on net equity, the
department shall use the greater of the facility's inpatient days
during the applicable cost reporting period or the number of
inpatient days the facility would have had during that period if
its occupancy rate had been ninety five per cent.~~

~~(I) If a nursing facility would receive a lower rate for
capital costs for assets in the facility's possession on July 1,
1993, under this section than it would receive under former
section 5111.25 of the Revised Code, as the former section existed
immediately prior to December 22, 1992, the facility shall receive
for those assets the rate it would have received under the former
section for each fiscal year beginning on or after July 1, 1993,
until the rate it would receive under this section exceeds the
rate it would have received under the former section. Any facility
that receives a rate calculated under the former section 5111.25
of the Revised Code for assets in the facility's possession on
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.~~

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 45154
be paid. The rate shall equal the sum of the following: 45155

(1) The facility's desk-reviewed, actual, allowable, per diem 45156
cost of ownership for the preceding cost reporting period, limited 45157
as provided in divisions (C) and (F) of this section; 45158

(2) Any efficiency incentive determined under division (B) of 45159
this section; 45160

(3) Any amounts for renovations determined under division (D) 45161
of this section; 45162

(4) Any amounts for return on equity determined under 45163
division (I) of this section. 45164

Buildings shall be depreciated using the straight line method 45165
over forty years or over a different period approved by the 45166
department. Components and equipment shall be depreciated using 45167
the straight line method over a period designated by the director 45168
of job and family services in rules adopted ~~in accordance with~~ 45169
~~Chapter 119. under section 5111.02~~ of the Revised Code, consistent 45170
with the guidelines of the American hospital association, or over 45171
a different period approved by the department of job and family 45172
services. Any rules ~~adopted under~~ authorized by this division that 45173
specify useful lives of buildings, components, or equipment apply 45174
only to assets acquired on or after July 1, 1993. Depreciation for 45175
costs paid or reimbursed by any government agency shall not be 45176
included in costs of ownership or renovation unless that part of 45177
the payment under sections 5111.20 to ~~5111.32~~ 5111.33 of the 45178
Revised Code is used to reimburse the government agency. 45179

(B) The department of job and family services shall pay to a 45180
provider for each of the provider's eligible intermediate care 45181
~~facility facilities~~ for the mentally retarded an efficiency 45182
incentive equal to fifty per cent of the difference between any 45183
desk-reviewed, actual, allowable cost of ownership and the 45184

applicable limit on cost of ownership payments under division (C) 45185
of this section. For purposes of computing the efficiency 45186
incentive, depreciation for costs paid or reimbursed by any 45187
government agency shall be considered as a cost of ownership, and 45188
the applicable limit under division (C) of this section shall 45189
apply both to facilities with more than eight beds and facilities 45190
with eight or fewer beds. The efficiency incentive paid to a 45191
provider for a facility with eight or fewer beds shall not exceed 45192
three dollars per patient day, adjusted annually for the inflation 45193
rate for the twelve-month period beginning on the first day of 45194
July of the calendar year preceding the calendar year that 45195
precedes the fiscal year for which the efficiency incentive is 45196
determined and ending on the thirtieth day of the following June, 45197
using the consumer price index for shelter costs for all urban 45198
consumers for the north central region, as published by the United 45199
States bureau of labor statistics. 45200

(C) Cost of ownership payments ~~to~~ for intermediate care 45201
facilities for the mentally retarded with more than eight beds 45202
shall not exceed the following limits: 45203

(1) For facilities with dates of licensure prior to January 45204
1, 1958, not exceeding two dollars and fifty cents per patient 45205
day; 45206

(2) For facilities with dates of licensure after December 31, 45207
1957, but prior to January 1, 1968, not exceeding: 45208

(a) Three dollars and fifty cents per patient day if the cost 45209
of construction was three thousand five hundred dollars or more 45210
per bed; 45211

(b) Two dollars and fifty cents per patient day if the cost 45212
of construction was less than three thousand five hundred dollars 45213
per bed. 45214

(3) For facilities with dates of licensure after December 31, 45215

1967, but prior to January 1, 1976, not exceeding:	45216
(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;	45217 45218 45219
(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;	45220 45221 45222 45223
(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	45224 45225 45226
(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:	45227 45228
(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;	45229 45230 45231
(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;	45232 45233 45234 45235
(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per bed;	45236 45237 45238 45239
(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	45240 45241 45242
(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1980, not exceeding:	45243 45244
(a) Six dollars per patient day if the cost of construction	45245

was seven thousand six hundred twenty-five dollars or more per	45246
bed;	45247
(b) Five dollars and fifty cents per patient day if the cost	45248
of construction was less than seven thousand six hundred	45249
twenty-five dollars per bed but exceeds six thousand eight hundred	45250
dollars per bed;	45251
(c) Four dollars and fifty cents per patient day if the cost	45252
of construction was six thousand eight hundred dollars or less per	45253
bed but exceeds five thousand one hundred fifty dollars per bed;	45254
(d) Three dollars and fifty cents per patient day if the cost	45255
of construction was five thousand one hundred fifty dollars or	45256
less but exceeds three thousand five hundred dollars per bed;	45257
(e) Two dollars and fifty cents per patient day if the cost	45258
of construction was three thousand five hundred dollars or less	45259
per bed.	45260
(6) For facilities with dates of licensure after December 31,	45261
1979, but prior to January 1, 1981, not exceeding:	45262
(a) Twelve dollars per patient day if the beds were	45263
originally licensed as residential facility beds by the department	45264
of mental retardation and developmental disabilities;	45265
(b) Six dollars per patient day if the beds were originally	45266
licensed as nursing home beds by the department of health.	45267
(7) For facilities with dates of licensure after December 31,	45268
1980, but prior to January 1, 1982, not exceeding:	45269
(a) Twelve dollars per patient day if the beds were	45270
originally licensed as residential facility beds by the department	45271
of mental retardation and developmental disabilities;	45272
(b) Six dollars and forty-five cents per patient day if the	45273
beds were originally licensed as nursing home beds by the	45274
department of health.	45275

(8) For facilities with dates of licensure after December 31, 1981, but prior to January 1, 1983, not exceeding:	45276 45277
(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;	45278 45279 45280
(b) Six dollars and seventy-nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	45281 45282 45283
(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:	45284 45285
(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;	45286 45287 45288
(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	45289 45290 45291
(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:	45292 45293
(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;	45294 45295 45296 45297
(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.	45298 45299 45300
(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:	45301 45302
(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	45303 45304 45305

disabilities;	45306
(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	45307 45308 45309
(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:	45310 45311
(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;	45312 45313 45314
(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	45315 45316 45317
(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:	45318 45319
(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;	45320 45321 45322 45323
(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.	45324 45325 45326
(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;	45327 45328 45329
(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;	45330 45331 45332
(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;	45333 45334 45335

(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;

(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;

(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.

(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.

For a nonextensive renovation to qualify for payment under

this division, both of the following conditions must be met: 45367

(1) At least five years have elapsed since the date of 45368
licensure or date of an extensive renovation of the portion of the 45369
facility that is proposed to be renovated, except that this 45370
condition does not apply if the renovation is necessary to meet 45371
the requirements of federal, state, or local statutes, ordinances, 45372
rules, or policies. 45373

(2) The provider has obtained prior approval from the 45374
department of job and family services. The provider shall submit a 45375
plan that describes in detail the changes in capital assets to be 45376
accomplished by means of the renovation and the timetable for 45377
completing the project. The time for completion of the project 45378
shall be no more than eighteen months after the renovation begins. 45379
The director of job and family services shall adopt rules ~~in~~ 45380
~~accordance with Chapter 119.~~ under section 5111.02 of the Revised 45381
Code that specify criteria and procedures for prior approval of 45382
renovation projects. No provider shall separate a project with the 45383
intent to evade the characterization of the project as a 45384
renovation or as an extensive renovation. No provider shall 45385
increase the scope of a project after it is approved by the 45386
department of job and family services unless the increase in scope 45387
is approved by the department. 45388

(E) The amounts specified in divisions (C) and (D) of this 45389
section shall be adjusted beginning July 1, 1993, for the 45390
estimated inflation for the twelve-month period beginning on the 45391
first day of July of the calendar year preceding the calendar year 45392
that precedes the fiscal year for which rate will be paid and 45393
ending on the thirtieth day of the following June, using the 45394
consumer price index for shelter costs for all urban consumers for 45395
the north central region, as published by the United States bureau 45396
of labor statistics. 45397

(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities before July 1, 1993, and for facilities of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the providers of the facilities demonstrate that they made substantial commitments of funds on or before that date, cost of ownership shall not exceed eighteen dollars and thirty cents per resident per day. The eighteen-dollar and thirty-cent amount shall be increased by the change in the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, during the period beginning June 30, 1990, and ending July 1, 1993, and by the change in the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics, annually thereafter.

(2) For facilities with eight or fewer beds that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before that date, cost of ownership payments shall not exceed the applicable amount calculated under division (F)(1) of this section, if the department of job and family services gives prior approval for construction of the facility. If the department does not give prior approval, cost of ownership payments shall not exceed the amount specified in division (C) of this section.

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this section, the total payment for cost of ownership, cost of ownership efficiency incentive, and capitalized costs of renovations for an intermediate care facility for the mentally retarded with eight or fewer beds shall not exceed the sum of the

limitations specified in divisions (C) and (D) of this section. 45430

(G) Notwithstanding any provision of this section or section 45431
5111.24 of the Revised Code, the director of job and family 45432
services may adopt rules ~~in accordance with Chapter 119.~~ under 45433
section 5111.02 of the Revised Code that provide for a calculation 45434
of a combined maximum payment limit for indirect care costs and 45435
cost of ownership for intermediate care facilities for the 45436
mentally retarded with eight or fewer beds. 45437

(H) After June 30, 1980, the ~~owner~~ provider of an 45438
intermediate care facility for the mentally retarded ~~operating~~ 45439
~~under a provider agreement~~ shall provide written notice to the 45440
department of job and family services at least forty-five days 45441
prior to entering into any contract of sale for the facility or 45442
voluntarily terminating participation in the ~~medical assistance~~ 45443
medicaid program. After the date on which a transaction of sale is 45444
closed, the ~~owner~~ provider shall refund to the department the 45445
amount of excess depreciation paid to the provider for the 45446
facility by the department for each year the ~~owner~~ provider has 45447
operated the facility under a provider agreement and prorated 45448
according to the number of medicaid patient days for which the 45449
~~facility~~ provider has received payment for the facility. If an 45450
intermediate care facility for the mentally retarded is sold after 45451
five or fewer years of operation under a provider agreement, the 45452
refund to the department shall be equal to the excess depreciation 45453
paid to the provider for the facility. If an intermediate care 45454
facility for the mentally retarded is sold after more than five 45455
years but less than ten years of operation under a provider 45456
agreement, the refund to the department shall equal the excess 45457
depreciation paid to the provider for the facility multiplied by 45458
twenty per cent, multiplied by the number of years less than ten 45459
that a facility was operated under a provider agreement. If an 45460
intermediate care facility for the mentally retarded is sold after 45461

ten or more years of operation under a provider agreement, the 45462
~~owner~~ provider shall not refund any excess depreciation to the 45463
department. For the purposes of this division, "depreciation paid 45464
to the provider for the facility" means the amount paid to the 45465
provider for the intermediate care facility for the mentally 45466
retarded for cost of ownership pursuant to this section less any 45467
amount paid for interest costs. For the purposes of this division, 45468
"excess depreciation" is the intermediate care facility for the 45469
mentally retarded's depreciated basis, which is the ~~owner's~~ 45470
provider's cost less accumulated depreciation, subtracted from the 45471
purchase price but not exceeding the amount of depreciation paid 45472
to the provider for the facility. 45473

A cost report shall be filed with the department within 45474
ninety days after the date on which the transaction of sale is 45475
closed or participation is voluntarily terminated for an 45476
intermediate care facility for the mentally retarded subject to 45477
this division. The report shall show the accumulated depreciation, 45478
the sales price, and other information required by the department. 45479
The department shall provide for a bank, trust company, or savings 45480
and loan association to hold in escrow the amount of the last two 45481
monthly payments to the provider of an intermediate care facility 45482
for the mentally retarded made pursuant to division (A)(1) of 45483
section 5111.22 of the Revised Code before a sale or voluntary 45484
termination of participation or, if the ~~owner~~ provider fails, 45485
within the time required by this division, to notify the 45486
department before entering into a contract of sale for the 45487
facility, the amount of the first two monthly payments made to the 45488
provider for the facility after the department learns of the 45489
contract, regardless of whether a new owner is in possession of 45490
the facility. If the amount the ~~owner~~ provider will be required to 45491
refund under this section is likely to be less than the amount of 45492
the two monthly payments otherwise put into escrow under this 45493
division, the department shall take one of the following actions 45494

instead of withholding the amount of the two monthly payments: 45495

(1) In the case of ~~an owner~~ a provider that owns other 45496
facilities that participate in the ~~medical assistance~~ medicaid 45497
program, obtain a promissory note in an amount sufficient to cover 45498
the amount likely to be refunded; 45499

(2) In the case of all other ~~owners~~ providers, withhold the 45500
amount of the last monthly payment to the provider for the 45501
intermediate care facility for the mentally retarded or, if the 45502
~~owner~~ provider fails, within the time required by this division, 45503
to notify the department before entering into a contract of sale 45504
for the facility, the amount of the first monthly payment made to 45505
the provider for the facility after the department learns of the 45506
contract, regardless of whether a new owner is in possession of 45507
the facility. 45508

The department shall, within ninety days following the filing 45509
of the cost report, audit the report and issue an audit report to 45510
the ~~owner~~ provider. The department also may audit any other cost 45511
reports for the facility that have been filed during the previous 45512
three years. In the audit report, the department shall state its 45513
findings and the amount of any money owed to the department by the 45514
~~intermediate care facility for the mentally retarded~~ provider. The 45515
findings shall be subject to an adjudication conducted in 45516
accordance with Chapter 119. of the Revised Code. No later than 45517
fifteen days after the ~~owner~~ provider agrees to a settlement, any 45518
funds held in escrow less any amounts due to the department shall 45519
be released to the ~~owner~~ provider and amounts due to the 45520
department shall be paid to the department. If the amounts in 45521
escrow are less than the amounts due to the department, the 45522
balance shall be paid to the department within fifteen days after 45523
the ~~owner~~ provider agrees to a settlement. If the department does 45524
not issue its audit report within the ninety-day period, the 45525
department shall release any money held in escrow to the ~~owner~~ 45526

provider. For the purposes of this section, a transfer of 45527
corporate stock, the merger of one corporation into another, or a 45528
consolidation does not constitute a sale. Also, a change of 45529
ownership, lease, or termination of a lease of real or personal 45530
property associated with an intermediate care facility for the 45531
mentally retarded does not constitute a sale if there is no change 45532
in the operator of the facility. 45533

If an intermediate care facility for the mentally retarded is 45534
not sold or its participation is not terminated after notice is 45535
provided to the department under this division, the department 45536
shall order any payments held in escrow released to the ~~facility~~ 45537
provider upon receiving written notice from the ~~owner~~ provider 45538
that there will be no sale or termination of participation. After 45539
written notice is received from ~~an intermediate care facility for~~ 45540
~~the mentally retarded~~ a provider that a sale or termination of 45541
participation will not take place, the ~~facility~~ provider shall 45542
provide notice to the department at least forty-five days prior to 45543
entering into any contract of sale or terminating participation at 45544
any future time. 45545

(I) The department of job and family services shall pay a 45546
provider for each of the provider's eligible proprietary 45547
intermediate care ~~facility~~ facilities for the mentally retarded a 45548
return on the facility's net equity computed at the rate of one 45549
and one-half times the average of interest rates on special issues 45550
of public debt obligations issued to the federal hospital 45551
insurance trust fund for the cost reporting period. No facility's 45552
return on net equity paid under this division shall exceed one 45553
dollar per patient day. 45554

In calculating the rate for return on net equity, the 45555
department shall use the greater of the facility's inpatient days 45556
during the applicable cost reporting period or the number of 45557
inpatient days the facility would have had during that period if 45558

its occupancy rate had been ninety-five per cent.

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(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:

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(a) The annual lease expense or actual cost of ownership,
whichever is applicable;

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(b) The reasonable cost to the lessor or provider making the
transfer.

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(2) If a provider leases or transfers an interest in a
facility to another provider who is a related party, regardless of
the date of the lease or transfer, the related party's allowable
cost of ownership shall include the annual lease expense or actual
cost of ownership, whichever is applicable, subject to the
limitations specified in divisions (B) to (I) of this section, if
all of the following conditions are met:

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(a) The related party is a relative of owner;

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(b) In the case of a lease, if the lessor retains any
ownership interest, it is, except as provided in division
(J)(2)(d)(ii) of this section, in only the real property and any
improvements on the real property;

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(c) In the case of a transfer, the provider making the
transfer retains, except as provided in division (J)(2)(d)(iv) of
this section, no ownership interest in the facility;

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(d) The department of job and family services determines that
the lease or 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 lease or

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transfer is an arm's length transaction if all of the following, 45589
as applicable, apply: 45590

(i) In the case of a lease, once the lease goes into effect, 45591
the lessor has no direct or indirect interest in the lessee or, 45592
except as provided in division (J)(2)(b) of this section, the 45593
facility itself, including interest as an owner, officer, 45594
director, employee, independent contractor, or consultant, but 45595
excluding interest as a lessor. 45596

(ii) In the case of a lease, the lessor does not reacquire an 45597
interest in the facility except through the exercise of a lessor's 45598
rights in the event of a default. If the lessor reacquires an 45599
interest in the facility in this manner, the department shall 45600
treat the facility as if the lease never occurred when the 45601
department calculates its reimbursement rates for capital costs. 45602

(iii) In the case of a transfer, once the transfer goes into 45603
effect, the provider that made the transfer has no direct or 45604
indirect interest in the provider that acquires the facility or 45605
the facility itself, including interest as an owner, officer, 45606
director, employee, independent contractor, or consultant, but 45607
excluding interest as a creditor. 45608

(iv) In the case of a transfer, the provider that made the 45609
transfer does not reacquire an interest in the facility except 45610
through the exercise of a creditor's rights in the event of a 45611
default. If the provider reacquires an interest in the facility in 45612
this manner, the department shall treat the facility as if the 45613
transfer never occurred when the department calculates its 45614
reimbursement rates for capital costs. 45615

(v) The lease or transfer satisfies any other criteria 45616
specified in the rules. 45617

(e) Except in the case of hardship caused by a catastrophic 45618
event, as determined by the department, or in the case of a lessor 45619

or provider making the transfer who is at least sixty-five years 45620
of age, not less than twenty years have elapsed since, for the 45621
same facility, allowable cost of ownership was determined most 45622
recently under this division. 45623

Sec. 5111.254. (A) The department of job and family services 45624
shall establish initial rates for a nursing facility with a first 45625
date of licensure that is on or after July 1, 2007, including a 45626
facility that replaces one or more existing facilities, or for a 45627
nursing facility with a first date of licensure before that date 45628
that was initially certified for the medicaid program on or after 45629
that date, in the following manner: 45630

(1) The rate for direct care costs shall be determined as 45631
follows: 45632

(a) If there are no cost or resident assessment data as 45633
necessary to calculate a rate under section 5111.231 of the 45634
Revised Code, the rate shall be the median cost per case-mix unit 45635
calculated under division (B)(1) of that section for the relevant 45636
peer group for the calendar year preceding the fiscal year in 45637
which the rate will be paid, multiplied by the median annual 45638
average case-mix score for the peer group for that period and by 45639
the rate of inflation estimated under division (B)(3) of that 45640
section. This rate shall be recalculated to reflect the facility's 45641
actual quarterly average case-mix score, in accordance with that 45642
section, after it submits its first quarterly assessment 45643
information that qualifies for use in calculating a case-mix score 45644
in accordance with rules authorized by division (D) of section 45645
5111.232 of the Revised Code. If the facility's first two 45646
quarterly submissions do not contain assessment information that 45647
qualifies for use in calculating a case-mix score, the department 45648
shall continue to calculate the rate using the median annual 45649
case-mix score for the peer group in lieu of an assigned quarterly 45650

case-mix score. The department shall assign a case-mix score or, if necessary, a cost per case-mix unit under division (C) of section 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 ancillary and support costs shall be the rate for the facility's peer group as specified in division (E) of section 5111.24 of the Revised Code.

(3) The rate for capital costs shall be determined under section 5111.25 of the Revised Code using the greater of actual inpatient days or an imputed occupancy rate of eighty per cent.

(4) The quality incentive payment shall be the mean payment specified in division (B) of section 5111.234 of the Revised Code.

(5) The rate for taxes specified in section 5111.242 of the Revised Code shall be the median of the rate established for those taxes under that section for the facility's peer group as specified in division (E) of section 5111.24 of the Revised Code.

(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 nursing facilities under sections 5111.20 to 5111.33 of the Revised Code;

(2) Following the provider's submission of the nursing facility's cost report under division (A)(1)(b) of section 5111.26 of the Revised Code. 45681
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The department shall pay the rate adjusted based on the cost report beginning the first day of the calendar quarter that begins more than ninety days after the department receives the cost report. 45684
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Sec. 5111.255. (A) The department of job and family services shall establish initial rates for ~~a nursing facility or an~~ intermediate care facility for the mentally retarded with a first date of licensure that is on or after January 1, 1993, including a facility that replaces one or more existing facilities, or for ~~a nursing facility or an~~ intermediate care facility for the mentally retarded with a first date of licensure before that date that was initially certified for the ~~medical assistance~~ medicaid program on or after that date, in the following manner: 45688
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(1) The rate for direct care costs shall be determined as follows: 45697
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(a) If there are no cost or resident assessment data as necessary to calculate a rate under section 5111.23 of the Revised Code, the rate shall be the median cost per case-mix unit calculated under division (B)(1) of that section for the relevant peer group for the calendar year preceding the fiscal year in which the rate will be paid, multiplied by the median annual average case-mix score for the peer group for that period and by the rate of inflation estimated under division (B)~~(5)~~(3) of that section. This rate shall be recalculated to reflect the facility's actual quarterly average case-mix score, in accordance with that section, after it submits its first quarterly assessment information that qualifies for use in calculating a case-mix score in accordance with rules ~~adopted under~~ authorized by division (D) 45699
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of section ~~5111.231~~ 5111.232 of the Revised Code. If the 45712
facility's first two quarterly submissions do not contain 45713
assessment information that qualifies for use in calculating a 45714
case-mix score, the department shall continue to calculate the 45715
rate using the median annual case-mix score for the peer group in 45716
lieu of an assigned quarterly case-mix score. The department shall 45717
assign a case-mix score or, if necessary, a cost per case-mix unit 45718
under division (C) of section ~~5111.231~~ 5111.232 of the Revised 45719
Code for any subsequent submissions that do not contain assessment 45720
information that qualifies for use in calculating a case-mix 45721
score. 45722

(b) If the facility is a replacement facility and the 45723
facility or facilities that are being replaced are in operation 45724
immediately before the replacement facility opens, the rate shall 45725
be the same as the rate for the replaced facility or facilities, 45726
proportionate to the number of beds in each replaced facility. If 45727
one or more of the replaced facilities is not in operation 45728
immediately before the replacement facility opens, its proportion 45729
shall be determined under division (A)(1)(a) of this section. 45730

(2) The rate for other protected costs shall be one hundred 45731
fifteen per cent of the median rate for ~~the applicable type of~~ 45732
~~facility~~ intermediate care facilities for the mentally retarded 45733
calculated for the fiscal year under section 5111.235 of the 45734
Revised Code. 45735

(3) The rate for indirect care costs shall be the applicable 45736
maximum rate for the facility's peer group as specified in 45737
division (B) of section ~~5111.24~~ ~~or division (B) of section~~ 45738
5111.241 of the Revised Code. 45739

(4) The rate for capital costs shall be determined under 45740
section ~~5111.25~~ ~~or~~ 5111.251 of the Revised Code using the greater 45741
of actual inpatient days or an imputed occupancy rate of eighty 45742
per cent. 45743

(B) The department shall adjust the rates established under 45744
division (A) of this section at both of the following times: 45745

(1) Effective the first day of July, to reflect new rate 45746
calculations for all facilities under sections ~~5111.23~~ 5111.20 to 45747
~~5111.25 and 5111.251~~ 5111.33 of the Revised Code; 45748

(2) Following the ~~facility's~~ provider's submission of ~~its~~ the 45749
facility's cost report under division (A)(1)(b) of section 5111.26 45750
of the Revised Code. 45751

The department shall pay the rate adjusted based on the cost 45752
report beginning the first day of the calendar quarter that begins 45753
more than ninety days after the department receives the cost 45754
report. 45755

Sec. 5111.256. (A) This section applies to a nursing facility 45756
that undergoes a change of provider that the department of job and 45757
family services determines, in accordance with rules adopted under 45758
section 5111.02 of the Revised Code, is an arm's length 45759
transaction. 45760

(B) Except as provided in division (C) of this section, the 45761
department of job and family services shall pay an eligible 45762
nursing facility that undergoes a change of provider the same rate 45763
as the facility received on the day before the change of provider. 45764

(C) The rate for capital costs for a nursing facility that 45765
undergoes a change of provider shall be determined under section 45766
5111.25 of the Revised Code using projected capital costs if the 45767
new provider provides the department the projected capital costs. 45768

(D) The department shall adjust the rates established under 45769
this section at both of the following times: 45770

(1) Effective the first day of July, to reflect new rate 45771
calculations for all nursing facilities under sections 5111.20 to 45772
5111.33 of the Revised Code; 45773

(2) Following the nursing facility's submission of its cost report under division (A)(1)(b) of section 5111.26 of the Revised Code. 45774
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The department shall pay the rate adjusted based on the cost report beginning the first day of the calendar quarter that begins more than ninety days after the department receives the cost report. 45777
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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. 45781
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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 45792
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residents who have diagnoses or special care needs that require 45804
direct care resources that are not measured adequately by the 45805
applicable assessment instrument specified in rules ~~adopted under~~ 45806
authorized by section ~~5111.231~~ 5111.232 of the Revised Code, or 45807
who have diagnoses or special care needs specified in the rules as 45808
otherwise qualifying for consideration under this section. The 45809
facilities and units of facilities whose rates are established 45810
under this division may include, but shall not be limited to, any 45811
of the following: 45812

(1) In the case of nursing facilities, facilities and units 45813
of facilities that serve medically fragile pediatric residents, 45814
residents who are dependent on ventilators, or residents who have 45815
severe traumatic brain injury, end-stage Alzheimer's disease, or 45816
end-stage acquired immunodeficiency syndrome; 45817

(2) In the case of intermediate care facilities for the 45818
mentally retarded, facilities and units of facilities that serve 45819
residents who have complex medical conditions or severe behavioral 45820
problems. 45821

The department shall use the methodology established under 45822
this division to pay for services rendered by such facilities and 45823
units after June 30, 1993. 45824

The rules ~~adopted under~~ authorized by this division shall 45825
specify the criteria and procedures the department will apply when 45826
designating facilities and units that qualify for calculation of 45827
rates under this division. The criteria shall include 45828
consideration of whether all of the allowable costs of the 45829
facility or unit would be paid by rates established under sections 45830
~~5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251,~~ 45831
~~and 5111.255~~ 5111.20 to 5111.33 of the Revised Code, and shall 45832
establish a minimum bed size for a facility or unit to qualify to 45833
have its rates established under this division. The criteria shall 45834
not be designed to require that residents be served only in 45835

facilities located in large cities. The methodology established by 45836
the rules shall consider the historical costs of providing care to 45837
the residents of the facilities or units. 45838

The rules may require that a facility designated under this 45839
division or containing a unit designated under this division 45840
receive authorization from the department to admit or retain a 45841
resident to the facility or unit and shall specify the criteria 45842
and procedures the department will apply when granting that 45843
authorization. 45844

Notwithstanding any other provision of sections 5111.20 to 45845
~~5111.32~~ 5111.33 of the Revised Code, the costs incurred by 45846
facilities or units whose rates are established under this 45847
division shall not be considered in establishing payment rates for 45848
other facilities or units. 45849

(B) The director may adopt rules ~~in accordance with Chapter~~ 45850
~~119.~~ under section 5111.02 of the Revised Code under which the 45851
department, notwithstanding any other provision of sections 45852
5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, may adjust the 45853
rates determined under sections ~~5111.23~~ 5111.20 to ~~5111.255~~ 45854
5111.33 of the Revised Code for a facility that serves a resident 45855
who has a diagnosis or special care need that, in the rules 45856
~~adopted under~~ authorized by division (A) of this section, would 45857
qualify a facility or unit of a facility to have its rate 45858
determined under that division, but who is not in such a unit. The 45859
rules may require that a facility that qualifies for a rate 45860
adjustment under this division receive authorization from the 45861
department to admit or retain a resident who qualifies the 45862
facility for the rate adjustment and shall specify the criteria 45863
and procedures the department will apply when granting that 45864
authorization. 45865

Sec. 5111.26. (A)(1)(a) Except as provided in division 45866

(A)(1)(b) of this section, each ~~nursing facility and intermediate~~ 45867
~~care facility for the mentally retarded~~ provider shall file with 45868
the department of job and family services an annual cost report 45869
~~prepared for each of the provider's nursing facilities and~~ 45870
~~intermediate care facilities for the mentally retarded that~~ 45871
~~participate in the medicaid program. A provider shall prepare the~~ 45872
~~reports~~ in accordance with guidelines established by the 45873
department. ~~The~~ A report shall cover a calendar year or the 45874
portion of a calendar year during which the facility participated 45875
in the ~~medical-assistance~~ medicaid program. ~~All facilities~~ A 45876
provider shall file the reports within ninety days after the end 45877
of the calendar year. The department, for good cause, may grant a 45878
fourteen-day extension of the time for filing cost reports upon 45879
written request from a ~~facility~~ provider. The director of job and 45880
family services shall prescribe, in rules adopted ~~in accordance~~ 45881
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, the 45882
cost reporting form and a uniform chart of accounts for the 45883
purpose of cost reporting, and shall distribute cost reporting 45884
forms or computer software for electronic submission of the cost 45885
report to each ~~nursing facility and intermediate care facility for~~ 45886
~~the mentally retarded~~ provider at least sixty days before the 45887
~~facility's~~ reporting date. 45888

(b) ~~A facility for which~~ If rates are for a provider's 45889
nursing facility or intermediate care facility for the mentally 45890
retarded were most recently established under section 5111.254 or 45891
5111.255 of the Revised Code, the provider shall submit a cost 45892
report for that facility no later than ninety days after the end 45893
of the facility's first three full calendar months of operation. ~~A~~ 45894
~~The~~ provider of a facility that opens after the first day of 45895
October in any calendar year is not required to file a cost report 45896
for that calendar year. If rates for a provider's nursing facility 45897
were most recently established under section 5111.256 of the 45898
Revised Code, the provider shall submit a cost report for that 45899

facility not later than ninety days after the end of the 45900
facility's first three full calendar months of operation after the 45901
change of provider. 45902

(c) If a nursing facility undergoes a change of provider that 45903
the department determines, in accordance with rules adopted under 45904
section 5111.02 of the Revised Code, is not an arms length 45905
transaction, the new provider shall file a cost report under 45906
division (A)(1)(a) of this section for the facility. The cost 45907
report shall cover the portion of the calendar year during which 45908
the new provider operated the nursing facility and the portion of 45909
the calendar year during which the previous provider operated the 45910
nursing facility. 45911

(2) If a ~~nursing facility or intermediate care facility for~~ 45912
the ~~mentally retarded~~ provider required to submit a cost reports 45913
report for a nursing facility or intermediate care facility for 45914
the ~~mentally retarded~~ does not file the ~~reports~~ report within the 45915
required time ~~periods~~ period or within fourteen days thereafter if 45916
an extension is granted under division (A)(1)(a) of this section, 45917
or files an incomplete or inadequate report for the facility, the 45918
department shall provide immediate written notice to the ~~facility~~ 45919
~~provider~~ that ~~its~~ the provider agreement for the facility will be 45920
terminated in thirty days unless the ~~facility~~ provider submits a 45921
complete and adequate cost report for the facility within thirty 45922
days. During the thirty-day termination period or any additional 45923
time allowed for an appeal of the proposed termination of a 45924
provider agreement, the ~~facility~~ provider shall be paid ~~its~~ the 45925
facility's then current per resident per day rate, minus two 45926
dollars. On July 1, 1994, the department shall adjust the 45927
two-dollar reduction to reflect the rate of inflation during the 45928
preceding twelve months, as shown in the consumer price index for 45929
all items for all urban consumers for the north central region, 45930
published by the United States bureau of labor statistics. On July 45931

1, 1995, and the first day of July of each year thereafter, the 45932
department shall adjust the amount of the reduction in effect 45933
during the previous twelve months to reflect the rate of inflation 45934
during the preceding twelve months, as shown in the same index. 45935

(B) No ~~nursing facility or intermediate care facility for the~~ 45936
~~mentally retarded~~ provider shall report fines paid under sections 45937
5111.35 to 5111.62 or section 5111.99 of the Revised Code in any 45938
cost report filed under this section. 45939

(C) The department shall develop an addendum to the cost 45940
report form that a ~~nursing facility or intermediate care facility~~ 45941
~~for the mentally retarded~~ provider may use to set forth costs that 45942
the ~~facility~~ provider believes may be disputed by the department. 45943
Any costs reported by the ~~facility~~ provider on the addendum may be 45944
considered by the department in setting the facility's rate. If 45945
the department does not consider the costs listed on the addendum 45946
in setting the facility's rate, the ~~facility~~ provider may seek 45947
reconsideration of that determination under section 5111.29 of the 45948
Revised Code. If the department subsequently includes the costs 45949
listed in the addendum in the facility's rate, the department 45950
shall pay the ~~facility~~ provider interest at a reasonable rate 45951
established in rules adopted ~~in accordance with Chapter 119.~~ under 45952
section 5111.02 of the Revised Code for the time that the rate 45953
paid excluded the costs. 45954

Sec. 5111.261. Except as otherwise provided in ~~sections~~ 45955
~~5111.262 to~~ section 5111.264 of the Revised Code, the department 45956
of job and family services, in determining whether an intermediate 45957
care facility for the mentally retarded's direct care costs and 45958
indirect care costs are allowable, shall place no limit on 45959
specific categories of reasonable costs other than compensation of 45960
owners, compensation of relatives of owners, compensation of 45961
administrators and costs for resident meals that are prepared and 45962

consumed outside the facility. 45963

Compensation cost limits for owners and relatives of owners 45964
shall be based on compensation costs for individuals who hold 45965
comparable positions but who are not owners or relatives of 45966
owners, as reported on facility cost reports. As used in this 45967
section, "comparable position" means the position that is held by 45968
the owner or the owner's relative, if that position is listed 45969
separately on the cost report form, or if the position is not 45970
listed separately, the group of positions that is listed on the 45971
cost report form and that includes the position held by the owner 45972
or the owner's relative. In the case of an owner or owner's 45973
relative who serves the facility in a capacity such as corporate 45974
officer, proprietor, or partner for which no comparable position 45975
or group of positions is listed on the cost report form, the 45976
compensation cost limit shall be based on civil service 45977
equivalents and shall be specified in rules adopted ~~by the~~ 45978
~~director of job and family services in accordance with Chapter~~ 45979
~~119.~~ under section 5111.02 of the Revised Code. 45980

Compensation cost limits for administrators shall be based on 45981
compensation costs for administrators who are not owners or 45982
relatives of owners, as reported on facility cost reports. 45983
Compensation cost limits for administrators of four or more 45984
intermediate care facilities for the mentally retarded shall be 45985
the same as the limits for administrators of ~~nursing facilities or~~ 45986
intermediate care facilities for the mentally retarded with one 45987
hundred fifty or more beds. 45988

~~For nursing facilities, cost limits for resident meals that~~ 45989
~~are prepared and consumed outside the facility shall be based on~~ 45990
~~the statewide average cost of serving and preparing meals in all~~ 45991
~~nursing facilities, as reported on the facility cost reports. For~~ 45992
~~intermediate care facilities for the mentally retarded, cost~~ 45993
~~limits for resident meals that are prepared and consumed outside~~ 45994

the facility shall be based on the statewide average cost of 45995
serving and preparing meals in all intermediate care facilities 45996
for the mentally retarded, as reported on the facility cost 45997
reports. 45998

Sec. 5111.262. Except as otherwise provided in sections 45999
5111.263 and 5111.264 of the Revised Code, the department of job 46000
and family services, in determining whether a nursing facility's 46001
direct care costs and ancillary and support costs are allowable, 46002
shall place no limit on specific categories of reasonable costs. 46003

Sec. 5111.263. (A) As used in this section, "covered therapy 46004
services" means physical therapy, occupational therapy, audiology, 46005
and speech therapy services that are provided by appropriately 46006
licensed therapists or therapy assistants and that are covered for 46007
nursing facility residents either by the medicare program 46008
established under Title XVIII of the "Social Security Act," 49 46009
Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or the ~~medical~~ 46010
~~assistance~~ medicaid program as specified in rules adopted by the 46011
director of job and family services ~~in accordance with Chapter~~ 46012
~~119.~~ under section 5111.02 of the Revised Code. 46013

(B) Except as provided in division (G) of this section, the 46014
costs of therapy are not allowable costs for nursing facilities 46015
for the purpose of determining rates under sections ~~5111.23,~~ 46016
~~5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251,~~ 46017
~~5111.255, and 5111.257~~ 5111.20 to 5111.33 of the Revised Code. 46018

(C) The department of job and family services shall process 46019
no claims for payment under the ~~medical assistance~~ medicaid 46020
program for covered therapy services rendered to a resident of a 46021
nursing facility other than such claims submitted, in accordance 46022
with this section, by a nursing facility that has a valid provider 46023
agreement with the department. 46024

(D) ~~Nursing Providers of nursing facilities that have entered~~ 46025
~~into a provider agreement~~ may bill the department of job and 46026
family services for covered therapy services ~~it provides the~~ 46027
nursing facilities provide to residents of any nursing facility 46028
who are medicaid recipients ~~of the medical assistance program~~ and 46029
not eligible for the medicare program. 46030

(E) The department shall not process any claim for a covered 46031
therapy service provided to a nursing facility resident who is 46032
eligible for the medicare program unless the claim is for a 46033
copayment or deductible or the conditions in division (E)(1) or 46034
(2) of this section apply: 46035

(1) The covered therapy service provided is, under the 46036
federal statutes, regulations, or policies governing the medicare 46037
program, not covered by the medicare program and the service is, 46038
under the provisions of this chapter or the rules adopted under 46039
this chapter, covered by the ~~medical assistance~~ medicaid program. 46040

(2) All of the following apply: 46041

(a) The individual or entity who provided the covered therapy 46042
service was eligible to bill the medicare program for the service. 46043

(b) A complete, accurate, and timely claim was submitted to 46044
the medicare program and the program denied payment for the 46045
service as not medically necessary for the resident. For the 46046
purposes of division (E)(2)(b) of this section, a claim is not 46047
considered to have been denied by the medicare program until 46048
either a denial has been issued following a medicare fair hearing 46049
or six months have elapsed since the request for a fair hearing 46050
was filed. 46051

(c) The facility is required to provide or arrange for the 46052
provision of the service by a licensed therapist or therapy 46053
assistant to be in compliance with federal or state nursing 46054
facility certification requirements for the ~~medical assistance~~ 46055

medicaid program. 46056

(d) The claim for payment for the services under the ~~medical~~ 46057
~~assistance~~ medicaid program is accompanied by documentation that 46058
divisions (E)(2)(b) and (c) of this section apply to the service. 46059

(F) The reimbursement allowed by the department for covered 46060
therapy services provided to nursing facility residents and billed 46061
under division (D) or (E) of this section shall be fifteen per 46062
cent less than the fees it pays for the same services rendered to 46063
hospital outpatients. The director may adopt rules ~~in accordance~~ 46064
~~with Chapter 119.~~ under section 5111.02 of the Revised Code 46065
establishing comparable fees for covered therapy services that are 46066
not included in its schedule of fees paid for services rendered to 46067
hospital outpatients. 46068

(G) A nursing facility's reasonable costs for rehabilitative, 46069
restorative, or maintenance therapy services rendered to facility 46070
residents by nurses or nurse aides, and the facility's overhead 46071
costs to support provision of therapy services provided to nursing 46072
facility residents, are allowable costs for the purposes of 46073
establishing rates under sections ~~5111.23, 5111.231, 5111.235,~~ 46074
~~5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257~~ 46075
5111.20 to 5111.33 of the Revised Code. 46076

Sec. 5111.264. Except as provided in section 5111.25 or 46077
~~5111.264~~ 5111.251 of the Revised Code, the costs of goods, 46078
services, and facilities, furnished to a provider by a related 46079
party are includable in the allowable costs of the provider at the 46080
reasonable cost to the related party. 46081

Sec. 5111.265. If one or more medicaid-certified beds are 46082
relocated from one nursing facility to another nursing facility 46083
owned by a different person or government entity and the 46084
application for the certificate of need authorizing the relocation 46085

is filed with the director of health on or after the effective 46086
date of this section, amortization of the cost of acquiring 46087
operating rights for the relocated beds is not an allowable cost 46088
for the purpose of determining the nursing facility's medicaid 46089
reimbursement rate. 46090

Sec. 5111.266. As used in this section, "franchise permit 46091
fee" means the fee imposed by sections 3721.50 to 3721.58 of the 46092
Revised Code. 46093

A provider of a nursing facility filing the facility's cost 46094
report with the department of job and family services under 46095
section 5111.26 of the Revised Code shall report as a 46096
nonreimbursable expense the cost of the nursing facility's 46097
franchise permit fee. 46098

Sec. 5111.27. (A) The department of job and family services 46099
shall conduct a desk review of each cost report it receives under 46100
section 5111.26 of the Revised Code. Based on the desk review, the 46101
department shall make a preliminary determination of whether the 46102
reported costs are allowable costs. The department shall notify 46103
each ~~nursing facility and intermediate care facility for the~~ 46104
~~mentally retarded~~ provider of whether any of ~~its~~ the reported 46105
costs are preliminarily determined not to be allowable, the rate 46106
calculation under sections ~~5111.23~~ 5111.20 to ~~5111.257~~ 5111.33 of 46107
the Revised Code that results from that determination, and the 46108
reasons for the determination and resulting rate. The department 46109
shall allow the ~~facility~~ provider to verify the calculation and 46110
submit additional information. 46111

(B) The department may conduct an audit, as defined by rule 46112
adopted ~~by the director of job and family services in accordance~~ 46113
~~with Chapter 119.~~ section 5111.02 of the Revised Code, of 46114
any cost report and shall notify the ~~nursing facility or~~ 46115

~~intermediate care facility for the mentally retarded provider~~ of 46116
its findings. 46117

Audits shall be conducted by auditors under contract with or 46118
employed by the department. The decision whether to conduct an 46119
audit and the scope of the audit, which may be a desk or field 46120
audit, shall be determined based on prior performance of the 46121
provider and may be based on a risk analysis or other evidence 46122
that gives the department reason to believe that the provider has 46123
reported costs improperly. A desk or field audit may be performed 46124
annually, but is required whenever a provider does not pass the 46125
risk analysis tolerance factors. The department shall issue the 46126
audit report no later than three years after the cost report is 46127
filed, or upon the completion of a desk or field audit on the 46128
report or a report for a subsequent cost reporting period, 46129
whichever is earlier. During the time within which the department 46130
may issue an audit report, the provider may amend the cost report 46131
upon discovery of a material error or material additional 46132
information. The department shall review the amended cost report 46133
for accuracy and notify the provider of its determination. 46134

The department may establish a contract for the auditing of 46135
facilities by outside firms. Each contract entered into by bidding 46136
shall be effective for one to two years. The department shall 46137
establish an audit manual and program which shall require that all 46138
field audits, conducted either pursuant to a contract or by 46139
department employees: 46140

(1) Comply with the applicable rules prescribed pursuant to 46141
Titles XVIII and XIX of the "Social Security Act," 49 Stat. 620 46142
(1935), 42 U.S.C.A. 301, as amended; 46143

(2) Consider generally accepted auditing standards prescribed 46144
by the American institute of certified public accountants; 46145

(3) Include a written summary as to whether the costs 46146

included in the report examined during the audit are allowable and 46147
are presented fairly in accordance with generally accepted 46148
accounting principles and department rules, and whether, in all 46149
material respects, allowable costs are documented, reasonable, and 46150
related to patient care; 46151

(4) Are conducted by accounting firms or auditors who, during 46152
the period of the auditors' professional engagement or employment 46153
and during the period covered by the cost reports, do not have nor 46154
are committed to acquire any direct or indirect financial interest 46155
in the ownership, financing, or operation of a nursing facility or 46156
intermediate care facility for the mentally retarded in this 46157
state; 46158

(5) Are conducted by accounting firms or auditors who, as a 46159
condition of the contract or employment, shall not audit any 46160
facility that has been a client of the firm or auditor; 46161

(6) Are conducted by auditors who are otherwise independent 46162
as determined by the standards of independence established by the 46163
American institute of certified public accountants; 46164

(7) Are completed within the time period specified by the 46165
department; 46166

(8) Provide to the ~~nursing facility or intermediate care~~ 46167
~~facility for the mentally retarded~~ provider complete written 46168
interpretations that explain in detail the application of all 46169
relevant contract provisions, regulations, auditing standards, 46170
rate formulae, and departmental policies, with explanations and 46171
examples, that are sufficient to permit the ~~facility~~ provider to 46172
calculate with reasonable certainty those costs that are allowable 46173
and the rate to which the provider's facility is entitled. 46174

For the purposes of division (B)(4) of this section, 46175
employment of a member of an auditor's family by a nursing 46176
facility or intermediate care facility for the mentally retarded 46177

that the auditor does not review does not constitute a direct or 46178
indirect financial interest in the ownership, financing, or 46179
operation of the facility. 46180

(C) The department, pursuant to rules adopted ~~in accordance~~ 46181
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, may 46182
conduct an exception review of assessment information submitted 46183
under section ~~5111.231~~ 5111.232 of the Revised Code. The 46184
department may conduct an exception review based on the findings 46185
of a certification survey conducted by the department of health, a 46186
risk analysis, or prior performance of the provider. 46187

Exception reviews shall be conducted at the facility by 46188
appropriate health professionals under contract with or employed 46189
by the department of job and family services. The professionals 46190
may review resident assessment forms and supporting documentation, 46191
conduct interviews, and observe residents to identify any patterns 46192
or trends of inaccurate assessments and resulting inaccurate 46193
case-mix scores. 46194

The rules shall establish an exception review program that 46195
requires that exception reviews do all of the following: 46196

(1) Comply with Titles XVIII and XIX of the "Social Security 46197
Act"; 46198

(2) Provide a written summary that states whether the 46199
resident assessment forms have been completed accurately; 46200

(3) Are conducted by health professionals who, during the 46201
period of their professional engagement or employment with the 46202
department, neither have nor are committed to acquire any direct 46203
or indirect financial interest in the ownership, financing, or 46204
operation of a nursing facility or intermediate care facility for 46205
the mentally retarded in this state; 46206

(4) Are conducted by health professionals who, as a condition 46207

of their engagement or employment with the department, shall not
review any facility provider that has been a client of the
professional.

For the purposes of division (C)(3) of this section,
employment of a member of a health professional's family by a
nursing facility or intermediate care facility for the mentally
retarded that the professional does not review does not constitute
a direct or indirect financial interest in the ownership,
financing, or operation of the facility.

If an exception review is conducted before the effective date
of the rate that is based on the case-mix information subject to
the review and the review results in findings that exceed
tolerance levels specified in the rules adopted under this
division, the department, in accordance with those rules, may use
the findings to recalculate individual resident case-mix scores,
quarterly average facility case-mix scores, and annual average
facility case-mix scores. The department may use the recalculated
quarterly and annual facility average case-mix scores to calculate
the facility's rate for direct care costs for the appropriate
calendar quarter or quarters.

(D) The department shall prepare a written summary of any
audit disallowance or exception review finding that is made after
the effective date of the rate that is based on the cost or
case-mix information. Where the facility provider is pursuing
judicial or administrative remedies in good faith regarding the
disallowance or finding, the department shall not withhold from
the ~~facility's~~ provider's current payments any amounts the
department claims to be due from the facility provider pursuant to
section 5111.28 of the Revised Code.

(E) The department shall not reduce rates calculated under
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code on

the basis that the ~~facility~~ provider charges a lower rate to any 46239
resident who is not eligible for the ~~medical assistance~~ medicaid 46240
program. 46241

(F) The department shall adjust the rates calculated under 46242
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code to 46243
account for reasonable additional costs that must be incurred by 46244
nursing facilities and intermediate care facilities for the 46245
mentally retarded to comply with requirements of federal or state 46246
statutes, rules, or policies enacted or amended after January 1, 46247
1992, or with orders issued by state or local fire authorities. 46248

Sec. 5111.28. (A) If a provider properly amends its cost 46249
report under section 5111.27 of the Revised Code and the amended 46250
report shows that the provider received a lower rate under the 46251
original cost report than it was entitled to receive, the 46252
department of job and family services shall adjust the provider's 46253
rate prospectively to reflect the corrected information. The 46254
department shall pay the adjusted rate beginning two months after 46255
the first day of the month after the provider files the amended 46256
cost report. If the department finds, from an exception review of 46257
resident assessment information conducted after the effective date 46258
of the rate for direct care costs that is based on the assessment 46259
information, that inaccurate assessment information resulted in 46260
the provider receiving a lower rate than it was entitled to 46261
receive, the department prospectively shall adjust the provider's 46262
rate accordingly and shall make payments using the adjusted rate 46263
for the remainder of the calendar quarter for which the assessment 46264
information is used to determine the rate, beginning one month 46265
after the first day of the month after the exception review is 46266
completed. 46267

(B) If the provider properly amends its cost report under 46268
section 5111.27 of the Revised Code, the department makes a 46269

finding based on an audit under that section, or the department 46270
makes a finding based on an exception review of resident 46271
assessment information conducted under that section after the 46272
effective date of the rate for direct care costs that is based on 46273
the assessment information, any of which results in a 46274
determination that the provider has received a higher rate than it 46275
was entitled to receive, the department shall recalculate the 46276
provider's rate using the revised information. The department 46277
shall apply the recalculated rate to the periods when the provider 46278
received the incorrect rate to determine the amount of the 46279
overpayment. The provider shall refund the amount of the 46280
overpayment. 46281

In addition to requiring a refund under this division, the 46282
department may charge the provider interest at the applicable rate 46283
specified in this division from the time the overpayment was made. 46284

(1) If the overpayment resulted from costs reported for 46285
calendar year 1993, the interest shall be no greater than one and 46286
one-half times the average bank prime rate. 46287

(2) If the overpayment resulted from costs reported for 46288
subsequent calendar years: 46289

(a) The interest shall be no greater than two times the 46290
average bank prime rate if the overpayment was equal to or less 46291
than one per cent of the total medicaid payments to the provider 46292
for the fiscal year for which the incorrect information was used 46293
to establish a rate. 46294

(b) The interest shall be no greater than two and one-half 46295
times the current average bank prime rate if the overpayment was 46296
greater than one per cent of the total medicaid payments to the 46297
provider for the fiscal year for which the incorrect information 46298
was used to establish a rate. 46299

(C) The department also may impose the following penalties: 46300

(1) If a provider does not furnish invoices or other documentation that the department requests during an audit within 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;

(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.

(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.

(E) The department shall transmit refunds and penalties to the treasurer of state for deposit in the general revenue fund.

(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 46332
prime rate from the federal reserve bank of Cleveland or the 46333
federal reserve board. 46334

Sec. 5111.29. (A) The director of job and family services 46335
shall adopt rules ~~in accordance with Chapter 119.~~ under section 46336
5111.02 of the Revised Code that establish a process under which a 46337
~~nursing facility or intermediate care facility for the mentally~~ 46338
~~retarded~~ provider, or a group or association of ~~facilities~~ 46339
providers, may seek reconsideration of rates established under 46340
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code, 46341
including a rate for direct care costs recalculated before the 46342
effective date of the rate as a result of an exception review of 46343
resident assessment information conducted under section 5111.27 of 46344
the Revised Code. 46345

(1) Except as provided in divisions (A)(2) to (4) of this 46346
section, the only issue that a ~~facility~~ provider, group, or 46347
association may raise in the rate reconsideration shall be whether 46348
the rate was calculated in accordance with sections ~~5111.23~~ 46349
5111.20 to ~~5111.28~~ 5111.33 of the Revised Code and the rules 46350
adopted under ~~those sections~~ section 5111.02 of the Revised Code. 46351
The rules shall permit a ~~facility~~ provider, group, or association 46352
to submit written arguments or other materials that support its 46353
position. The rules shall specify time frames within which the 46354
~~facility~~ provider, group, or association and the department must 46355
act. If the department determines, as a result of the rate 46356
reconsideration, that the rate established for one or more 46357
facilities of a provider is less than the rate to which ~~it~~ the 46358
facility is entitled, the department shall increase the rate. If 46359
the department has paid the incorrect rate for a period of time, 46360
the department shall pay the ~~facility~~ provider the difference 46361
between the amount ~~it~~ the provider was paid for that period for 46362

the facility and the amount ~~it~~ the provider should have been paid 46363
for the facility. 46364

(2) The rules shall provide that during a fiscal year, the 46365
department, by means of the rate reconsideration process, may 46366
increase a facility's rate as calculated under sections ~~5111.23~~ 46367
5111.20 to ~~5111.28~~ 5111.33 of the Revised Code if the provider of 46368
the facility demonstrates that ~~its~~ the facility's actual, 46369
allowable costs have increased because of extreme circumstances. A 46370
facility may qualify for a rate increase only if ~~its~~ the 46371
facility's per diem, actual, allowable costs have increased to a 46372
level that exceeds its total rate, including any efficiency or 46373
quality incentive and return on equity payment. The rules shall 46374
specify the circumstances that would justify a rate increase under 46375
division (A)(2) of this section. ~~In the case of nursing~~ 46376
~~facilities, the~~ The rules shall provide that the extreme 46377
circumstances include ~~increased security costs for an inner city~~ 46378
~~nursing facility and an increase in workers' compensation~~ 46379
~~experience rating of greater than five per cent for a facility~~ 46380
~~that has an appropriate claims management program but do not~~ 46381
~~include a change of ownership that results from bankruptcy,~~ 46382
~~foreclosure, or findings of violations of certification~~ 46383
~~requirements by the department of health~~ natural disasters. In the 46384
case of intermediate care facilities for the mentally retarded, 46385
the rules shall provide that the extreme circumstances include, 46386
but are not limited to, renovations approved under division (D) of 46387
section 5111.251 of the Revised Code, an increase in workers' 46388
compensation experience rating of greater than five per cent for a 46389
facility that has an appropriate claims management program, 46390
increased security costs for an inner-city facility, and a change 46391
of ownership that results from bankruptcy, foreclosure, or 46392
findings of violations of certification requirements by the 46393
department of health. An increase under division (A)(2) of this 46394
section is subject to any rate limitations or maximum rates 46395

established by sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the 46396
Revised Code for specific cost centers. Any rate increase granted 46397
under division (A)(2) of this section shall take effect on the 46398
first day of the first month after the department receives the 46399
request. 46400

(3) The rules shall provide that the department, through the 46401
rate reconsideration process, may increase ~~a facility's~~ an 46402
intermediate care facility for the mentally retarded's rate as 46403
calculated under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of 46404
the Revised Code if the department, in ~~its~~ the department's sole 46405
discretion, determines that the rate as calculated under those 46406
sections works an extreme hardship on the facility. 46407

(4) The rules shall provide that when beds certified for the 46408
~~medical assistance~~ medicaid program are added to an existing 46409
intermediate care facility for the mentally retarded, replaced at 46410
the same site, or subject to a change of ownership or lease, the 46411
department, through the rate reconsideration process, shall 46412
increase the ~~facility's~~ intermediate care facility for the 46413
mentally retarded's rate for capital costs proportionately, as 46414
limited by any applicable limitation under section ~~5111.25~~ or 46415
5111.251 of the Revised Code, to account for the costs of the beds 46416
that are added, replaced, or subject to a change of ownership or 46417
lease. The department shall make this increase one month after the 46418
first day of the month after the department receives sufficient 46419
documentation of the costs. Any rate increase granted under 46420
division (A)(4) of this section after June 30, 1993, shall remain 46421
in effect until the effective date of a rate calculated under 46422
section ~~5111.25~~ or 5111.251 of the Revised Code that includes 46423
costs incurred for a full calendar year for the bed addition, bed 46424
replacement, or change of ownership or lease. The facility shall 46425
report double accumulated depreciation in an amount equal to the 46426
depreciation included in the rate adjustment on its cost report 46427

for the first year of operation. During the term of any loan used 46428
to finance a project for which a rate adjustment is granted under 46429
division (A)(4) of this section, if the facility is operated by 46430
the same provider, the ~~facility~~ provider shall subtract from the 46431
interest costs it reports on its cost report an amount equal to 46432
the difference between the following: 46433

(a) The actual, allowable interest costs for the loan during 46434
the calendar year for which the costs are being reported; 46435

(b) The actual, allowable interest costs attributable to the 46436
loan that were used to calculate the rates paid to the provider 46437
for the facility during the same calendar year. 46438

(5) The department's decision at the conclusion of the 46439
reconsideration process shall not be subject to any administrative 46440
proceedings under Chapter 119. or any other provision of the 46441
Revised Code. 46442

(B) Any audit disallowance that the department makes as the 46443
result of an audit under section 5111.27 of the Revised Code, any 46444
adverse finding that results from an exception review of resident 46445
assessment information conducted under that section after the 46446
effective date of the facility's rate that is based on the 46447
assessment information, and any penalty the department imposes 46448
under division (C) of section 5111.28 of the Revised Code shall be 46449
subject to an adjudication conducted in accordance with Chapter 46450
119. of the Revised Code. 46451

Sec. 5111.291. Notwithstanding sections 5111.20 to ~~5111.29~~ 46452
5111.33 of the Revised Code, the department of job and family 46453
services may compute the rate for intermediate care facilities for 46454
the mentally retarded operated by the department of mental 46455
retardation and developmental disabilities or the department of 46456
mental health according to the reasonable cost principles of Title 46457
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 46458

U.S.C.A. 1395, as amended.

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Sec. 5111.30. The department of job and family services shall
terminate the provider agreement with a ~~nursing facility or~~
~~intermediate care facility for the mentally retarded~~ provider that
does not comply with the requirements of section 3721.071 of the
Revised Code for the installation of fire extinguishing and fire
alarm systems.

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Sec. 5111.31. (A) Every provider agreement with the provider
of a nursing facility or intermediate care facility for the
mentally retarded shall:

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(1) Prohibit the ~~facility~~ provider from failing or refusing
to retain as a patient any person because the person is, becomes,
or may, as a patient in the facility, become a medicaid recipient
~~of assistance under the medical assistance program~~. For the
purposes of this division, a medicaid recipient ~~of medical~~
~~assistance~~ who is a patient in a facility shall be considered a
patient in the facility during any hospital stays totaling less
than twenty-five days during any twelve-month period. Recipients
who have been identified by the department of job and family
services or its designee as requiring the level of care of an
intermediate care facility for the mentally retarded shall not be
subject to a maximum period of absences during which they are
considered patients if prior authorization of the department for
visits with relatives and friends and participation in therapeutic
programs is obtained under rules adopted under section 5111.02 of
the Revised Code.

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(2) ~~Include~~ Except as provided by division (B)(1) of this
section, include any part of the facility that meets standards for
certification of compliance with federal and state laws and rules
for participation in the ~~medical assistance~~ medicaid program,

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~~except that nursing facilities that, during the period beginning 46489
July 1, 1987, and ending July 1, 1993, added beds licensed as 46490
nursing home beds under Chapter 3721. of the Revised Code are not 46491
required to include those beds under a provider agreement unless 46492
otherwise required by federal law. Once added to the provider 46493
agreement, however, those nursing home beds may not be removed 46494
unless the facility withdraws from the medical assistance program 46495
in its entirety. 46496~~

(3) Prohibit the ~~facility~~ provider from discriminating 46497
against any patient on the basis of race, color, sex, creed, or 46498
national origin. 46499

(4) Except as otherwise prohibited under section 5111.55 of 46500
the Revised Code, prohibit the ~~facility~~ provider from failing or 46501
refusing to accept a patient because the patient is, becomes, or 46502
may, as a patient in the facility, become a medicaid recipient ~~of~~ 46503
~~assistance under the medical assistance program~~ if less than 46504
eighty per cent of the patients in the facility are medicaid 46505
recipients ~~of medical assistance~~. 46506

(B)(1) Except as provided by division (B)(2) of this section, 46507
the following are not required to be included in a provider 46508
agreement unless otherwise required by federal law: 46509

(a) Beds added during the period beginning July 1, 1987, and 46510
ending July 1, 1993, to a nursing home licensed under Chapter 46511
3721. of the Revised Code; 46512

(b) Beds in an intermediate care facility for the mentally 46513
retarded that are designated for respite care under a medicaid 46514
waiver component operated pursuant to a waiver sought under 46515
section 5111.87 of the Revised Code. 46516

(2) If a provider chooses to include a bed specified in 46517
division (B)(1) of this section in a provider agreement, the bed 46518
may not be removed from the provider agreement unless the provider 46519

withdraws the facility in which the bed is located from the 46520
medicaid program. 46521

(C) Nothing in this section shall bar ~~any a provider that is~~ 46522
a religious organization operating a religious or denominational 46523
nursing facility or intermediate care facility for the mentally 46524
retarded ~~that is operated, supervised, or controlled by a~~ 46525
~~religious organization~~ from giving preference to persons of the 46526
same religion or denomination. Nothing in this section shall bar 46527
any facility provider from giving preference to persons with whom 46528
~~it~~ the provider has contracted to provide continuing care. 46529

~~(C)~~(D) Nothing in this section shall bar ~~any~~ the provider of 46530
a county home organized under Chapter 5155. of the Revised Code 46531
from admitting residents exclusively from the county in which the 46532
county home is located. 46533

~~(D)~~(E) No provider of a nursing facility or intermediate care 46534
facility for the mentally retarded ~~with~~ for which a provider 46535
agreement is in effect shall violate the provider contract 46536
obligations imposed under this section. 46537

~~(E)~~(F) Nothing in divisions (A) and ~~(B)~~(C) of this section 46538
shall bar ~~any nursing facility or intermediate care facility for~~ 46539
~~the mentally retarded~~ a provider from retaining patients who have 46540
resided in the provider's facility for not less than one year as 46541
private pay patients and who subsequently become medicaid 46542
recipients ~~of assistance under the medicaid program,~~ but refusing 46543
to accept as a patient any person who is or may, as a patient in 46544
the facility, become a medicaid recipient ~~of assistance under the~~ 46545
~~medicaid program,~~ if all of the following apply: 46546

(1) The ~~facility~~ provider does not refuse to retain any 46547
patient who has resided in the provider's facility for not less 46548
than one year as a private pay patient because the patient becomes 46549
a medicaid recipient ~~of assistance under the medicaid program,~~ 46550

except as necessary to comply with division ~~(E)~~(F)(2) of this section; 46551
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(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; 46553
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(3) On July 1, 1980, all the patients in the facility were private pay patients. 46556
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Sec. 5111.32. Any patient has a cause of action against the provider of 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~~ the patient's behalf by ~~his~~ the patient's 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. 46558
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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~~ provider 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. 46568
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Sec. 5111.33. Reimbursement to ~~nursing facilities and intermediate care facilities for the mentally retarded~~ a provider under sections 5111.20 to 5111.32 of the Revised Code shall include payments to ~~facilities~~ the provider, 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 46575
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provider's nursing facility or intermediate care facility for the 46581
mentally retarded under sections ~~5111.23~~ 5111.20 to ~~5111.29~~ 46582
5111.33 of the Revised Code for the fiscal year for which the cost 46583
of services is reimbursed, to reserve a bed for a recipient during 46584
a temporary absence under conditions prescribed by the department, 46585
to include hospitalization for an acute condition, visits with 46586
relatives and friends, and participation in therapeutic programs 46587
outside the facility, when the resident's plan of care provides 46588
for such absence and federal participation in the payments is 46589
available. The maximum period during which payments may be made to 46590
reserve a bed shall not exceed the maximum period specified under 46591
federal regulations, and shall not be more than thirty days during 46592
any calendar year for hospital stays, visits with relatives and 46593
friends, and participation in therapeutic programs. Recipients who 46594
have been identified by the department as requiring the level of 46595
care of an intermediate care facility for the mentally retarded 46596
shall not be subject to a maximum period during which payments may 46597
be made to reserve a bed if prior authorization of the department 46598
is obtained for hospital stays, visits with relatives and friends, 46599
and participation in therapeutic programs. The director of job and 46600
family services shall adopt rules under ~~division (B)~~ of section 46601
5111.02 of the Revised Code establishing conditions under which 46602
prior authorization may be obtained. 46603

Sec. 5111.62. The proceeds of all fines, including interest, 46604
collected under sections 5111.35 to 5111.62 of the Revised Code 46605
shall be deposited in the state treasury to the credit of the 46606
residents protection fund, which is hereby created. ~~Moneys~~ The 46607
proceeds of all fines, including interest, collected under section 46608
173.42 of the Revised Code shall be deposited in the state 46609
treasury to the credit of the residents protection fund. 46610

Moneys in the fund shall be used for the protection of the 46611
health or property of residents of nursing facilities in which the 46612

department of health finds deficiencies, including payment for the 46613
costs of relocation of residents to other facilities, maintenance 46614
of operation of a facility pending correction of deficiencies or 46615
closure, and reimbursement of residents for the loss of money 46616
managed by the facility under section 3721.15 of the Revised Code. 46617
The 46618

The fund shall be maintained and administered by the 46619
department of job and family services under rules developed in 46620
consultation with the departments of health and aging and adopted 46621
by the director of job and family services under Chapter 119. of 46622
the Revised Code. 46623

Sec. 5111.85. (A) As used in this section, "medicaid waiver 46624
component" means a component of the medicaid program authorized by 46625
a waiver granted by the United States department of health and 46626
human services under section 1115 or 1915 of the "Social Security 46627
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid 46628
waiver component" does not include a care management system 46629
established under section 5111.16 of the Revised Code. 46630

(B) The director of job and family services may adopt rules 46631
under Chapter 119. of the Revised Code governing medicaid waiver 46632
components that establish all of the following: 46633

(1) Eligibility requirements for the medicaid waiver 46634
components; 46635

(2) The type, amount, duration, and scope of services the 46636
medicaid waiver components provide; 46637

(3) The conditions under which the medicaid waiver components 46638
cover services; 46639

(4) The amount the medicaid waiver components pay for 46640
services or the method by which the amount is determined; 46641

(5) The manner in which the medicaid waiver components pay 46642

for services; 46643

(6) Safeguards for the health and welfare of medicaid 46644
recipients receiving services under a medicaid waiver component; 46645

(7) Procedures for enforcing the rules, including 46646
establishing corrective action plans for, and imposing financial 46647
and administrative sanctions on, persons and government entities 46648
that violate the rules. Sanctions shall include terminating 46649
medicaid provider agreements. The procedures shall include due 46650
process protections. 46651

(8) Other policies necessary for the efficient administration 46652
of the medicaid waiver components. 46653

(C) The director of job and family services may adopt 46654
different rules for the different medicaid waiver components. The 46655
rules shall be consistent with the terms of the waiver authorizing 46656
the medicaid waiver component. 46657

~~(D) The director of job and family services may conduct 46658
reviews of the medicaid waiver components. The reviews may include 46659
physical inspections of records and sites where services are 46660
provided under the medicaid waiver components and interviews of 46661
providers and recipients of the services. If the director 46662
determines pursuant to a review that a person or government entity 46663
has violated a rule governing a medicaid waiver component, the 46664
director may establish a corrective action plan for the violator 46665
and impose fiscal, administrative, or both types of sanctions on 46666
the violator in accordance with rules adopted under division (B) 46667
of this section. 46668~~

Sec. 5111.851. (A) As used in sections 5111.851 to 5111.855 46669
of the Revised Code: 46670

"Administrative agency" means, with respect to a home and 46671
community-based services medicaid waiver component, the department 46672

of job and family services or, if a state agency or political 46673
subdivision contracts with the department under section 5111.91 of 46674
the Revised Code to administer the component, that state agency or 46675
political subdivision. 46676

"Home and community-based services medicaid waiver component" 46677
means a medicaid waiver component as defined in section 5111.85 of 46678
the Revised Code under which home and community-based services are 46679
provided as an alternative to hospital, nursing facility, or 46680
intermediate care facility for the mentally retarded services. 46681

"Hospital" has the same meaning as in section 3727.01 of the 46682
Revised Code. 46683

"Intermediate care facility for the mentally retarded" has 46684
the same meaning as in section 5111.20 of the Revised Code. 46685

"Level of care determination" means a determination of 46686
whether an individual needs the level of care provided by a 46687
hospital, nursing facility, or intermediate care facility for the 46688
mentally retarded and whether the individual, if determined to 46689
need that level of care, would receive hospital, nursing facility, 46690
or intermediate care facility for the mentally retarded services 46691
if not for a home and community-based services medicaid waiver 46692
component. 46693

"Nursing facility" has the same meaning as in section 5111.20 46694
of the Revised Code. 46695

"Skilled nursing facility" means a facility certified as a 46696
skilled nursing facility under Title XVIII of the "Social Security 46697
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 46698

(B) The following requirements apply to each home and 46699
community-based services medicaid waiver component: 46700

(1) Only an individual who qualifies for a component shall 46701
receive that component's services. 46702

(2) A level of care determination shall be made as part of the process of determining whether an individual qualifies for a component and shall be made each year after the initial determination if, during such a subsequent year, the administrative agency determines there is a reasonable indication that the individual's needs have changed.

(3) A written plan of care or individual service plan based on an individual assessment of the services that an individual needs to avoid needing hospital, nursing facility, or intermediate care facility for the mentally retarded services shall be created for each individual determined eligible for a component.

(4) Each individual determined eligible for a component shall receive that component's services in accordance with the individual's level of care determination and written plan of care or individual service plan.

(5) No individual may receive services under a component while the individual is a hospital inpatient or resident of a skilled nursing facility, nursing facility, or intermediate care facility for the mentally retarded.

(6) No individual may receive prevocational, educational, or supported employment services under a component if the individual is eligible for such services that are funded with federal funds provided under 29 U.S.C. 730 or the "Individuals with Disabilities Education Act," 111 Stat. 37 (1997), 20 U.S.C. 1400, as amended.

(7) Safeguards shall be taken to protect the health and welfare of individuals receiving services under a component, including safeguards established in rules adopted under section 5111.85 of the Revised Code and safeguards established by licensing and certification requirements that are applicable to the providers of that component's services.

(8) No services may be provided under a component by a

provider that is subject to standards that 42 U.S.C. 1382e(e)(1) 46734
requires be established if the provider fails to comply with the 46735
standards applicable to the provider. 46736

(9) Individuals determined to be eligible for a component, or 46737
such individuals' representatives, shall be informed of that 46738
component's services, including any choices that the individual or 46739
representative may make regarding the component's services, and 46740
given the choice of either receiving services under that component 46741
or, as appropriate, hospital, nursing facility, or intermediate 46742
care facility for the mentally retarded services. 46743

Sec. 5111.852. The department of job and family services may 46744
review and approve, modify, or deny written plans of care and 46745
individual service plans that section 5111.851 of the Revised Code 46746
requires be created for individuals determined eligible for a home 46747
and community-based services medicaid waiver component. If a state 46748
agency or political subdivision contracts with the department 46749
under section 5111.91 of the Revised Code to administer a home and 46750
community-based services medicaid waiver component and approves, 46751
modifies, or denies a written plan of care or individual service 46752
plan pursuant to the agency's or subdivision's administration of 46753
the component, the department may review the agency's or 46754
subdivision's approval, modification, or denial and order the 46755
agency or subdivision to reverse or modify the approval, 46756
modification, or denial. The state agency or political subdivision 46757
shall comply with the department's order. 46758

The department of job and family services shall be granted 46759
full and immediate access to any records the department needs to 46760
implement its duties under this section. 46761

Sec. 5111.853. Each administrative agency shall maintain, for 46762
a period of time the department of job and family services shall 46763

specify, financial records documenting the costs of services 46764
provided under the home and community-based services medicaid 46765
waiver components that the agency administers, including records 46766
of independent audits. The administrative agency shall make the 46767
financial records available on request to the United States 46768
secretary of health and human services, United States comptroller 46769
general, and their designees. 46770

Sec. 5111.854. Each administrative agency is financially 46771
accountable for funds expended for services provided under the 46772
home and community-based services medicaid waiver components that 46773
the agency administers. 46774

Sec. 5111.855. Each state agency and political subdivision 46775
that enters into a contract with the department of job and family 46776
services under section 5111.91 of the Revised Code to administer a 46777
home and community-based services medicaid waiver component, or 46778
one or more aspects of such a component, shall provide the 46779
department a written assurance that the agency or subdivision will 46780
not violate any of the requirements of sections 5111.85 to 46781
5111.854 of the Revised Code. 46782

Sec. 5111.97 5111.86. (A) As used in this section: 46783

(1) "Hospital" has the same meaning as in section 3727.01 of 46784
the Revised Code. 46785

(2) "Medicaid waiver component" has the same meaning as in 46786
section 5111.85 of the Revised Code. 46787

(3) "Nursing facility" has the same meaning as in section 46788
5111.20 of the Revised Code. 46789

(B) The director of job and family services may submit a 46790
request requests to the United States secretary of health and 46791

human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain waivers of federal medicaid requirements that would otherwise be violated in the creation and implementation of two or more medicaid waiver components under which home and community-based services ~~programs to replace the Ohio home care program being operated pursuant to rules adopted under sections 5111.01 and 5111.02 of the Revised Code and a medicaid waiver granted prior to the effective date of this section~~ are provided to eligible individuals who need the level of care provided by a nursing facility or hospital. In the ~~request~~ requests, the director may specify the following:

~~(1) That one of the replacement programs will provide home and community based services to individuals in need of nursing facility care, including individuals enrolled in the Ohio home care program;~~

~~(2) That the other replacement program will provide services to individuals in need of hospital care, including individuals enrolled in the Ohio home care program;~~

~~(3) That there will be a~~ The maximum number of individuals who may be enrolled in the ~~replacement programs in addition to the number of individuals to be transferred from the Ohio home care program~~ each of the medicaid waiver components included in the requests;

~~(4) That there will be a~~ (2) The maximum amount the ~~department medicaid program~~ may expend each year for each individual enrolled in the ~~replacement programs~~ medicaid waiver components;

~~(5) That there will be a~~ (3) The maximum aggregate amount the ~~department medicaid program~~ may expend each year for all individuals enrolled in the ~~replacement programs~~ medicaid waiver

components; 46823

~~(6)~~(4) Any other ~~requirement~~ requirements the director 46824
selects for the ~~replacement programs~~ medicaid waiver components. 46825

~~(B)~~(C) If the secretary ~~grants~~ approves the medicaid waivers 46826
requested under this section, the director may create and 46827
implement the ~~replacement programs~~ medicaid waiver components in 46828
accordance with the provisions of the approved waivers ~~granted~~. 46829
The department of job and family services shall administer the 46830
~~replacement programs~~ medicaid waiver components. 46831

~~As the replacement programs are implemented, the director~~ 46832
~~shall reduce the maximum number of individuals who may be enrolled~~ 46833
~~in the Ohio home care program by the number of individuals who are~~ 46834
~~transferred to the replacement programs. When all individuals who~~ 46835
~~are eligible to be transferred to the replacement programs have~~ 46836
~~been transferred, the director may submit to the secretary an~~ 46837
~~amendment to the state medicaid plan to provide for the~~ 46838
~~elimination of the Ohio home care program.~~ 46839

To the extent necessary for the efficient and economical 46840
administration of medicaid waiver components, the director may 46841
transfer an individual enrolled in a medicaid waiver component 46842
that the United States secretary of health and human services 46843
approved before the effective date of this amendment and is 46844
administered by the department to a medicaid waiver component 46845
created under this section if the individual is eligible for the 46846
medicaid waiver component created under this section and the 46847
transfer does not jeopardize the individual's health or safety. 46848

After the first of any medicaid waiver components created 46849
under this section begins to enroll eligible individuals, the 46850
director may submit to the United States secretary of health and 46851
human services an amendment to the medicaid waiver authorizing the 46852
Ohio home care program that provides for the department to cease 46853

enrolling additional individuals in the Ohio home care program. If 46854
the secretary approves the amendment, the director may cease to 46855
enroll additional individuals in the Ohio home care program. 46856

Sec. 5111.87. (A) As used in this section and section 46857
5111.871 of the Revised Code, ~~"intermediate;~~ 46858

(1) "Intermediate care facility for the mentally retarded" 46859
has the same meaning as in section 5111.20 of the Revised Code. 46860

(2) "Medicaid waiver component" has the same meaning as in 46861
section 5111.85 of the Revised Code. 46862

(B) The director of job and family services may apply to the 46863
United States secretary of health and human services for both of 46864
the following: 46865

(1) One or more medicaid ~~waivers~~ waiver components under 46866
which home and community-based services are provided to 46867
individuals with mental retardation or other developmental 46868
disability as an alternative to placement in an intermediate care 46869
facility for the mentally retarded; 46870

(2) One or more medicaid ~~waivers~~ waiver components under 46871
which home and community-based services are provided in the form 46872
of ~~either or both~~ any of the following: 46873

(a) Early intervention and supportive services for children 46874
under three years of age ~~that are provided or arranged by county~~ 46875
~~boards of mental retardation and who have~~ developmental delays or 46876
disabilities the director determines are significant; 46877

(b) Therapeutic services for children who have autism ~~and are~~ 46878
~~under six years of age at the time of enrollment;~~ 46879

(c) Specialized habilitative services for individuals who are 46880
eighteen years of age or older and have autism. 46881

(C) No medicaid waiver component authorized by division 46882

(B)(2)(b) or (c) of this section shall provide services that are 46883
available under another medicaid waiver component. No medicaid 46884
waiver component authorized by division (B)(2)(b) of this section 46885
shall provide services to an individual that the individual is 46886
eligible to receive through an individualized education program as 46887
defined in section 3323.01 of the Revised Code. 46888

(D) The director of mental retardation and developmental 46889
disabilities or director of health may request that the director 46890
of job and family services apply for one or more medicaid waivers 46891
under this section. 46892

~~(D)~~(E) Before applying for a waiver under this section, the 46893
director of job and family services shall seek, accept, and 46894
consider public comments. 46895

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.893 of 46896
the Revised Code: 46897

"Assisted living program" means the medicaid waiver component 46898
for which the director of job and family services is authorized by 46899
this section to request a medicaid waiver. 46900

"Assisted living services" means the following home and 46901
community-based services: personal care, homemaker, chore, 46902
attendant care, companion, medication oversight, and therapeutic 46903
social and recreational programming. 46904

"Medicaid waiver component" has the same meaning as in 46905
section 5111.85 of the Revised Code. 46906

"Nursing facility" has the same meaning as in section 5111.20 46907
of the Revised Code. 46908

"Residential care facility" has the same meaning as in 46909
section 3721.01 of the Revised Code. 46910

(B) The director of job and family services may submit a 46911
request to the United States secretary of health and human 46912

services under 42 U.S.C. 1396n to obtain a waiver of federal 46913
medicaid requirements that would otherwise be violated in the 46914
creation and implementation of a program under which assisted 46915
living services are provided to not more than one thousand 46916
residents of residential care facilities who meet the program's 46917
eligibility requirements established under section 5111.891 of the 46918
Revised Code. 46919

If the secretary approves the medicaid waiver requested under 46920
this section and the director of budget and management approves 46921
the contract, the department of job and family services shall 46922
enter into a contract with the department of aging under section 46923
5111.91 of the Revised Code that provides for the department of 46924
aging to administer the assisted living program. The contract 46925
shall include an estimate of the program's costs. 46926

The director of job and family services may adopt rules under 46927
section 5111.85 of the Revised Code regarding the assisted living 46928
program. The director of aging may adopt rules under Chapter 119. 46929
of the Revised Code regarding the program. The rules the director 46930
of aging adopts shall concern issues not addressed by the rules 46931
for the program adopted by the director of job and family 46932
services. 46933

Sec. 5111.891. To be eligible for the assisted living 46934
program, an individual must meet all of the following 46935
requirements: 46936

(A) Need an intermediate level of care as determined under 46937
rule 5101:3-3-06 of the Administrative Code; 46938

(B) At the time the individual applies for the assisted 46939
living program, be one of the following: 46940

(1) A nursing facility resident seeking to move to a 46941
residential care facility; 46942

(2) A participant of any of the following medicaid waiver components who would move to a nursing facility if not for the assisted living program: 46943
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(a) The PASSPORT program created under section 173.40 of the Revised Code; 46946
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(b) The medicaid waiver component called the choices program that the department of aging administers; 46948
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(c) A medicaid waiver component that the department of job and family services administers. 46950
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(C) At the time the individual receives assisted living services under the assisted living program, reside in either of the following: 46952
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(1) A residential care facility that is licensed under Chapter 3721. of the Revised Code on the effective date of this section and to which either of the following applies: 46955
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(a) It consists of beds that previously were licensed as nursing home beds under Chapter 3721. of the Revised Code and were converted to residential care facility beds for the purpose of the facility participating in the assisted living program. 46958
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(b) It is a part of a system of continuing care that is operated in conjunction with a nursing facility and one or more other facilities that provide a less intensive level of care, such as an adult care facility licensed under Chapter 3722. of the Revised Code or an independent living arrangement, and provides residents a contractual right of admission to the nursing facility. 46962
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(2) A residential care facility that is licensed under Chapter 3721. of the Revised Code and owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an 46969
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operating subsidy or rental assistance for the residents of the 46973
facility. 46974

(D) Meet all other eligibility requirements for the assisted 46975
living program established in rules adopted under section 5111.85 46976
of the Revised Code. 46977

Sec. 5111.892. A residential care facility providing services 46978
covered by the assisted living program to an individual enrolled 46979
in the program shall have staff on-site twenty-four hours each day 46980
who are able to do all of the following: 46981

(A) Meet the scheduled and unpredicted needs of the 46982
individuals enrolled in the assisted living program in a manner 46983
that promotes the individuals' dignity and independence; 46984

(B) Provide supervision services for those individuals; 46985

(C) Help keep the individuals safe and secure. 46986

Sec. 5111.893. If the United States secretary of health and 46987
human services approves a medicaid waiver authorizing the assisted 46988
living program, the director of aging shall contract with a person 46989
or government entity to evaluate the program's cost effectiveness. 46990
The director shall provide the results of the evaluation to the 46991
governor, president and minority leader of the senate, and speaker 46992
and minority leader of the house of representatives not later than 46993
June 30, 2007. 46994

Sec. 5111.911. Any contract the department of job and family 46995
services enters into with the department of mental health or 46996
department of alcohol and drug addiction services under section 46997
5111.91 of the Revised Code is subject to the approval of the 46998
director of budget and management and shall require or specify all 46999
of the following: 47000

(A) In the case of a contract with the department of mental health, that section 5111.912 of the Revised Code be complied with; 47001
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(B) In the case of a contract with the department of alcohol and drug addiction services, that section 5111.913 of the Revised Code be complied with; 47004
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(C) How providers will be paid for providing ~~the~~ alcohol, drug addiction, and mental health services covered by medicaid under the federal option of covering rehabilitative services; 47007
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(D) A process for making payments to the providers based on a provider-specific fixed-rate reimbursement methodology; 47010
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(E) The department of mental health's or department of alcohol and drug addiction services' responsibilities for reimbursing providers, ~~including;~~ 47012
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(F) Procedures for program oversight and quality assurance, including procedures for utilization review, utilization management, and care management. 47015
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Sec. 5111.914. (A) As used in this section, "provider" has the same meaning as in section 5111.06 of the Revised Code. 47018
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(B) If a state agency that enters into a contract with the department of job and family services under section 5111.91 of the Revised Code identifies that a medicaid overpayment has been made to a provider, the state agency may commence actions to recover the overpayment on behalf of the department. 47020
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(C) In recovering an overpayment pursuant to this section, a state agency shall comply with the following procedures: 47025
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(1) The state agency shall attempt to recover the overpayment by notifying the provider of the overpayment and requesting voluntary repayment. Not later than five business days after 47027
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notifying the provider, the state agency shall notify the 47030
department in writing of the overpayment. The state agency may 47031
negotiate a settlement of the overpayment and notify the 47032
department of the settlement. A settlement negotiated by the state 47033
agency is not valid and shall not be implemented until the 47034
department has given its written approval of the settlement. 47035

(2) If the state agency is unable to obtain voluntary 47036
repayment of an overpayment, the agency shall give the provider 47037
notice of an opportunity for a hearing in accordance with Chapter 47038
119. of the Revised Code. If the provider timely requests a 47039
hearing in accordance with section 119.07 of the Revised Code, the 47040
state agency shall conduct the hearing to determine the legal and 47041
factual validity of the overpayment. On completion of the hearing, 47042
the state agency shall submit its hearing officer's report and 47043
recommendation and the complete record of proceedings, including 47044
all transcripts, to the director of job and family services for 47045
final adjudication. The director may issue a final adjudication 47046
order in accordance with Chapter 119. of the Revised Code. The 47047
state agency shall pay any attorney's fees imposed under section 47048
119.092 of the Revised Code. The department of job and family 47049
services shall pay any attorney's fees imposed under section 47050
2335.39 of the Revised Code. 47051

(D) In any action taken by a state agency under this section 47052
that requires the agency to give notice of an opportunity for a 47053
hearing in accordance with Chapter 119. of the Revised Code, if 47054
the agency gives notice of the opportunity for a hearing but the 47055
provider subject to the notice does not request a hearing or 47056
timely request a hearing in accordance with section 119.07 of the 47057
Revised Code, the agency is not required to hold a hearing. The 47058
agency may request that the director of job and family services 47059
issue a final adjudication order in accordance with Chapter 119. 47060
of the Revised Code. 47061

(E) This section does not preclude the department of job and family services from adjudicating a final fiscal audit under section 5111.06 of the Revised Code, recovering overpayments under section 5111.061 of the Revised Code, or making findings or taking other actions authorized by this chapter. 47062
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Sec. 5111.915. (A) The department of job and family services shall enter into an interagency agreement with the department of administrative services for the department of administrative services to acquire through competitive selection pursuant to section 125.05 of the Revised Code a computer system to be known as the medicaid enterprise data warehouse. This computer system shall be used to enhance fraud and abuse detection, improve program management and budgeting, and improve performance measurement capabilities of all agencies serving medicaid recipients, including the departments of aging, alcohol and drug addiction services, health, job and family services, mental health, and mental retardation and development disabilities. 47067
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The department of administrative services shall take all necessary steps to receive and review bids for the medicaid enterprise data warehouse within ninety days after the effective date of this section. 47079
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(B) A vendor with whom the department of administrative services contracts to implement the medicaid enterprise data warehouse must have performed the following services prior to the department accepting the vendor's bid: 47083
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(1) Successfully implemented an enterprise data warehouse in a state whose health and human services budget, including medicaid, is equal to or exceeds Ohio's medicaid budget; 47087
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(2) Demonstrated an ability to link, at a minimum, the following data sets: 47090
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- (a) Medicaid; 47092
- (b) Temporary assistance for needy families; 47093
- (c) Vital records. 47094

Sec. ~~5111.88~~ 5111.97. (A) As used in this section, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 47095
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(B) To the extent funds are available, the director of job and family services may establish the Ohio access success project to help medicaid recipients make the transition from residing in a nursing facility to residing in a community setting. The program may be established as a separate non-medicaid program or integrated into a new or existing 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. 47098
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To be eligible for benefits under the project, a medicaid recipient must satisfy all of the following requirements: 47107
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(1) Be a recipient of medicaid-funded nursing facility services, at the time of applying for the benefits; 47109
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(2) Have resided continuously in a nursing facility for not less than ~~eighteen~~ twelve months prior to applying to participate in the project; 47111
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(3) Need the level of care provided by nursing facilities; 47114

(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; 47115
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(5) For participation in a program established as part of a medicaid-funded home and community-based services waiver program, 47119
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meet waiver enrollment criteria.	47121
(C) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following:	47122
(1) The first month's rent in a community setting;	47123
(2) Rental deposits;	47124
(3) Utility deposits;	47125
(4) Moving expenses;	47126
(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.	47127
(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.	47128
(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.	47129
<u>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:</u>	47130
(1) <u>Adopt rules;</u>	47131

(2) Assign duties to county departments of job and family services; 47150
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(3) Make payments to the United States department of health and human services from appropriations made to the department of job and family services for this purpose. 47152
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(B) Rules adopted under division (A)(1) of this section shall be adopted as follows: 47155
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(1) If the rules concern the department's duties regarding service providers, in accordance with Chapter 119. of the Revised Code; 47157
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(2) If the rules concern the department's duties concerning individuals' eligibility for services, in accordance with section 111.15 of the Revised Code; 47160
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(3) If the rules concern the department's duties concerning financial and operational matters between the department and county departments of job and family services, in accordance with section 111.15 of the Revised Code as if the rules were internal management rules. 47163
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Sec. 5111.99. (A) Whoever violates division (B) of section 5111.26 or division ~~(D)~~(E) of section 5111.31 of the Revised Code shall be fined not less than five hundred dollars nor more than one thousand dollars for the first offense and not less than one thousand dollars nor more than five thousand dollars for each subsequent offense. Fines paid under this section shall be deposited in the state treasury to the credit of the general revenue fund. 47168
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(B) Whoever violates division (D) of section 5111.61 of the Revised Code is guilty of registering a false complaint, a misdemeanor of the first degree. 47176
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Sec. 5112.03. (A) The director of job and family services 47179
shall adopt, and may amend and rescind, rules in accordance with 47180
Chapter 119. of the Revised Code for the purpose of administering 47181
sections 5112.01 to 5112.21 of the Revised Code, including rules 47182
that do all of the following: 47183

(1) Define as a "disproportionate share hospital" any 47184
hospital included under subsection (b) of section 1923 of the 47185
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 47186
1396r-4(b), as amended, and any other hospital the director 47187
determines appropriate; 47188

(2) Prescribe the form for submission of cost reports under 47189
section 5112.04 of the Revised Code; 47190

(3) Establish, in accordance with division (A) of section 47191
5112.06 of the Revised Code, the assessment rate or rates to be 47192
applied to hospitals under that section; 47193

(4) Establish schedules for hospitals to pay installments on 47194
their assessments under section 5112.06 of the Revised Code and 47195
for governmental hospitals to pay installments on their 47196
intergovernmental transfers under section 5112.07 of the Revised 47197
Code; 47198

(5) Establish procedures to notify hospitals of adjustments 47199
made under division (B)(2)(b) of section 5112.06 of the Revised 47200
Code in the amount of installments on their assessment; 47201

(6) Establish procedures to notify hospitals of adjustments 47202
made under division (D) of section 5112.09 of the Revised Code in 47203
the total amount of their assessment and to adjust for the 47204
remainder of the program year the amount of the installments on 47205
the assessments; 47206

(7) Establish, in accordance with section 5112.08 of the 47207
Revised Code, the methodology for paying hospitals under that 47208

section. 47209

The director shall consult with hospitals when adopting the 47210
rules required by divisions (A)(4) and (5) of this section in 47211
order to minimize hospitals' cash flow difficulties. 47212

(B) Rules adopted under this section may provide that "total 47213
facility costs" excludes costs associated with any of the 47214
following: 47215

(1) Recipients of the medical assistance program; 47216

(2) Recipients of financial assistance provided under Chapter 47217
5115. of the Revised Code; 47218

~~(3) Recipients of medical assistance provided under Chapter 47219
5115. of the Revised Code; 47220~~

~~(4)~~ Recipients of the program for medically handicapped 47221
children established under section 3701.023 of the Revised Code; 47222

~~(5)~~(4) Recipients of the medicare program established under 47223
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 47224
U.S.C.A. 301, as amended: 47225

~~(6)~~(5) Recipients of Title V of the "Social Security Act"; 47226

~~(7)~~(6) Any other category of costs deemed appropriate by the 47227
director in accordance with Title XIX of the "Social Security Act" 47228
and the rules adopted under that title. 47229

Sec. 5112.08. The director of job and family services shall 47230
adopt rules under section 5112.03 of the Revised Code establishing 47231
a methodology to pay hospitals that is sufficient to expend all 47232
money in the indigent care pool. Under the rules: 47233

(A) The department of job and family services may classify 47234
similar hospitals into groups and allocate funds for distribution 47235
within each group. 47236

(B) The department shall establish a method of allocating 47237
funds to hospitals, taking into consideration the relative amount 47238
of indigent care provided by each hospital or group of hospitals. 47239
The amount to be allocated shall be based on any combination of 47240
the following indicators of indigent care that the director 47241
considers appropriate: 47242

(1) Total costs, volume, or proportion of services to 47243
recipients of the medical assistance program, including recipients 47244
enrolled in health insuring corporations; 47245

(2) Total costs, volume, or proportion of services to 47246
low-income patients in addition to recipients of the medical 47247
assistance program, which may include recipients of Title V of the 47248
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 47249
amended, and recipients of financial ~~or medical~~ assistance 47250
provided under Chapter 5115. of the Revised Code; 47251

(3) The amount of uncompensated care provided by the hospital 47252
or group of hospitals; 47253

(4) Other factors that the director considers to be 47254
appropriate indicators of indigent care. 47255

(C) The department shall distribute funds to each hospital or 47256
group of hospitals in a manner that first may provide for an 47257
additional distribution to individual hospitals that provide a 47258
high proportion of indigent care in relation to the total care 47259
provided by the hospital or in relation to other hospitals. The 47260
department shall establish a formula to distribute the remainder 47261
of the funds. The formula shall be consistent with section 1923 of 47262
the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall 47263
be based on any combination of the indicators of indigent care 47264
listed in division (B) of this section that the director considers 47265
appropriate. 47266

(D) The department shall distribute funds to each hospital in 47267

installments not later than ten working days after the deadline 47268
established in rules for each hospital to pay an installment on 47269
its assessment under section 5112.06 of the Revised Code. In the 47270
case of a governmental hospital that makes intergovernmental 47271
transfers, the department shall pay an installment under this 47272
section not later than ten working days after the earlier of that 47273
deadline or the deadline established in rules for the governmental 47274
hospital to pay an installment on its intergovernmental transfer. 47275
If the amount in the hospital care assurance program fund and the 47276
hospital care assurance match fund created under section 5112.18 47277
of the Revised Code is insufficient to make the total 47278
distributions for which hospitals are eligible to receive in any 47279
period, the department shall reduce the amount of each 47280
distribution by the percentage by which the amount is 47281
insufficient. The department shall distribute to hospitals any 47282
amounts not distributed in the period in which they are due as 47283
soon as moneys are available in the funds. 47284

Sec. 5112.17. (A) As used in this section: 47285

(1) "Federal poverty guideline" means the official poverty 47286
guideline as revised annually by the United States secretary of 47287
health and human services in accordance with section 673 of the 47288
"Community Service Block Grant Act," 95 Stat. 511 (1981), 42 47289
U.S.C.A. 9902, as amended, for a family size equal to the size of 47290
the family of the person whose income is being determined. 47291

(2) "Third-party payer" means any private or public entity or 47292
program that may be liable by law or contract to make payment to 47293
or on behalf of an individual for health care services. 47294
"Third-party payer" does not include a hospital. 47295

(B) Each hospital that receives funds distributed under 47296
sections 5112.01 to 5112.21 of the Revised Code shall provide, 47297
without charge to the individual, basic, medically necessary 47298

hospital-level services to individuals who are residents of this state, are not recipients of the medical assistance program, and whose income is at or below the federal poverty guideline. Recipients of disability financial assistance ~~and recipients of disability medical assistance~~ provided under Chapter 5115. of the Revised Code qualify for services under this section. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code specifying the hospital services to be provided under this section.

(C) Nothing in this section shall be construed to prevent a hospital from requiring an individual to apply for eligibility under the medical assistance program before the hospital processes an application under this section. Hospitals may bill any third-party payer for services rendered under this section. Hospitals may bill the medical assistance program, in accordance with Chapter 5111. of the Revised Code and the rules adopted under that chapter, for services rendered under this section if the individual becomes a recipient of the program. Hospitals may bill individuals for services under this section if all of the following apply:

(1) The hospital has an established post-billing procedure for determining the individual's income and canceling the charges if the individual is found to qualify for services under this section.

(2) The initial bill, and at least the first follow-up bill, is accompanied by a written statement that does all of the following:

(a) Explains that individuals with income at or below the federal poverty guideline are eligible for services without charge;

(b) Specifies the federal poverty guideline for individuals

and families of various sizes at the time the bill is sent; 47330

(c) Describes the procedure required by division (C)(1) of 47331
this section. 47332

(3) The hospital complies with any additional rules the 47333
department adopts under section 5112.03 of the Revised Code. 47334

Notwithstanding division (B) of this section, a hospital 47335
providing care to an individual under this section is subrogated 47336
to the rights of any individual to receive compensation or 47337
benefits from any person or governmental entity for the hospital 47338
goods and services rendered. 47339

(D) Each hospital shall collect and report to the department, 47340
in the form and manner prescribed by the department, information 47341
on the number and identity of patients served pursuant to this 47342
section. 47343

(E) This section applies beginning May 22, 1992, regardless 47344
of whether the department has adopted rules specifying the 47345
services to be provided. Nothing in this section alters the scope 47346
or limits the obligation of any governmental entity or program, 47347
including the program awarding reparations to victims of crime 47348
under sections 2743.51 to 2743.72 of the Revised Code and the 47349
program for medically handicapped children established under 47350
section 3701.023 of the Revised Code, to pay for hospital services 47351
in accordance with state or local law. 47352

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the 47353
Revised Code, ~~"intermediate:~~ 47354

(A) "Intermediate care facility for the mentally retarded" 47355
has the same meaning as in section 5111.20 of the Revised Code, 47356
except that it does not include any such facility operated by the 47357
department of mental retardation and developmental disabilities. 47358

(B) "Medicaid" has the same meaning as in section 5111.01 of 47359

the Revised Code.

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Sec. 5112.31. The department of job and family services shall
do all of the following:

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(A) For the purpose of providing home and community-based
services for mentally retarded and developmentally disabled
persons, annually assess each intermediate care facility for the
mentally retarded a franchise permit fee equal to nine dollars and
sixty-three cents multiplied by the product of the following:

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(1) The number of beds certified under Title XIX of the
"Social Security Act" on the first day of May of the calendar year
in which the assessment is determined pursuant to division (A) of
section 5112.33 of the Revised Code;

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(2) The number of days in the fiscal year beginning on the
first day of July of the same calendar year.

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(B) Beginning July 1, ~~2005~~ 2007, and the first day of each
July thereafter, adjust fees determined under division (A) of this
section in accordance with the composite inflation factor
established in rules adopted under section 5112.39 of the Revised
Code.

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(C) If the United States secretary of health and human
services determines that the franchise permit fee established by
sections 5112.30 to 5112.39 of the Revised Code would be an
impermissible health care-related tax under section 1903(w) of the
"Social Security Act," 42 U.S.C.A. 1396b(w), as amended, ~~the~~
~~department shall~~ take all necessary actions to cease
implementation of those sections in accordance with rules adopted
under section 5112.39 of the Revised Code.

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Sec. 5112.341. (A) In addition to assessing a penalty
pursuant to section 5112.34 of the Revised Code, the department of

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job and family services may do either of the following if an 47389
intermediate care facility for the mentally retarded fails to pay 47390
the full amount of a franchise permit fee installment when due: 47391

(1) Withhold an amount equal to the installment and penalty 47392
assessed under section 5112.34 of the Revised Code from a medicaid 47393
payment due the facility until the facility pays the installment 47394
and penalty; 47395

(2) Terminate the facility's medicaid provider agreement. 47396

(B) The department may withhold a medicaid payment under 47397
division (A)(1) of this section without providing notice to the 47398
intermediate care facility for the mentally retarded and without 47399
conducting an adjudication under Chapter 119. of the Revised Code. 47400

Sec. 5115.20. (A) The department of job and family services 47401
shall establish a disability advocacy program and each county 47402
department of job and family services shall establish a disability 47403
advocacy program unit or join with other county departments of job 47404
and family services to establish a joint county disability 47405
advocacy program unit. Through the program the department and 47406
county departments shall cooperate in efforts to assist applicants 47407
for and recipients of assistance under the disability financial 47408
assistance program ~~and the disability medical assistance program,~~ 47409
who might be eligible for supplemental security income benefits 47410
under Title XVI of the "Social Security Act," 86 Stat. 1475 47411
(1972), 42 U.S.C.A. 1383, as amended, in applying for those 47412
benefits. 47413

As part of their disability advocacy programs, the state 47414
department and county departments may enter into contracts for the 47415
services of persons and government entities that in the judgment 47416
of the department or county department have demonstrated expertise 47417
in representing persons seeking supplemental security income 47418

benefits. Each contract shall require the person or entity with
which a department contracts to assess each person referred to it
by the department to determine whether the person appears to be
eligible for supplemental security income benefits, and, if the
person appears to be eligible, assist the person in applying and
represent the person in any proceeding of the social security
administration, including any appeal or reconsideration of a
denial of benefits. The department or county department shall
provide to the person or entity with which it contracts all
records in its possession relevant to the application for
supplemental security income benefits. The department shall
require a county department with relevant records to submit them
to the person or entity.

(B) Each applicant for or recipient of disability financial
assistance ~~or disability medical assistance~~ who, in the judgment
of the department or a county department might be eligible for
supplemental security benefits, shall, as a condition of
eligibility for assistance, apply for such benefits if directed to
do so by the department or county department.

(C) With regard to applicants for and recipients of
disability financial assistance ~~or disability medical assistance~~,
each county department of job and family services shall do all of
the following:

(1) Identify applicants and recipients who might be eligible
for supplemental security income benefits;

(2) Assist applicants and recipients in securing
documentation of disabling conditions or refer them for such
assistance to a person or government entity with which the
department or county department has contracted under division (A)
of this section;

(3) Inform applicants and recipients of available sources of

representation, which may include a person or government entity
with which the department or county department has contracted
under division (A) of this section, and of their right to
represent themselves in reconsiderations and appeals of social
security administration decisions that deny them supplemental
security income benefits. The county department may require the
applicants and recipients, as a condition of eligibility for
assistance, to pursue reconsiderations and appeals of social
security administration decisions that deny them supplemental
security income benefits, and shall assist applicants and
recipients as necessary to obtain such benefits or refer them to a
person or government entity with which the department or county
department has contracted under division (A) of this section.

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(4) Require applicants and recipients who, in the judgment of
the county department, are or may be aged, blind, or disabled, to
apply for medical assistance under Chapter 5111. of the Revised
Code, make determinations when appropriate as to eligibility for
medical assistance, and refer their applications when necessary to
the disability determination unit established in accordance with
division (F) of this section for expedited review;

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(5) Require each applicant and recipient who in the judgment
of the department or the county department might be eligible for
supplemental security income benefits, as a condition of
eligibility for disability financial assistance ~~or disability~~
~~medical assistance~~, to execute a written authorization for the
secretary of health and human services to withhold benefits due
that individual and pay to the director of job and family services
or the director's designee an amount sufficient to reimburse the
state and county shares of interim assistance furnished to the
individual. For the purposes of division (C)(5) of this section,
"benefits" and "interim assistance" have the meanings given in
Title XVI of the "Social Security Act."

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(D) The director of job and family services shall adopt rules 47482
in accordance with section 111.15 of the Revised Code for the 47483
effective administration of the disability advocacy program. The 47484
rules shall include all of the following: 47485

(1) Methods to be used in collecting information from and 47486
disseminating it to county departments, including the following: 47487

(a) The number of individuals in the county who are disabled 47488
recipients of disability financial assistance ~~or disability~~ 47489
~~medical assistance;~~ 47490

(b) The final decision made either by the social security 47491
administration or by a court for each application or 47492
reconsideration in which an individual was assisted pursuant to 47493
this section. 47494

(2) The type and process of training to be provided by the 47495
department of job and family services to the employees of the 47496
county department of job and family services who perform duties 47497
under this section; 47498

(3) Requirements for the written authorization required by 47499
division (C)(5) of this section. 47500

(E) The department shall provide basic and continuing 47501
training to employees of the county department of job and family 47502
services who perform duties under this section. Training shall 47503
include but not be limited to all processes necessary to obtain 47504
federal disability benefits, and methods of advocacy. 47505

(F) The department shall establish a disability determination 47506
unit and develop guidelines for expediting reviews of applications 47507
for medical assistance under Chapter 5111. of the Revised Code for 47508
persons who have been referred to the unit under division (C)(4) 47509
of this section. The department shall make determinations of 47510
eligibility for medical assistance for any such person within the 47511

time prescribed by federal regulations. 47512

(G) The department may, under rules the director of job and 47513
family services adopts in accordance with section 111.15 of the 47514
Revised Code, pay a portion of the federal reimbursement described 47515
in division (C)(5) of this section to persons or government 47516
entities that assist or represent assistance recipients in 47517
reconsiderations and appeals of social security administration 47518
decisions denying them supplemental security income benefits. 47519

(H) The director shall conduct investigations to determine 47520
whether disability advocacy programs are being administered in 47521
compliance with the Revised Code and the rules adopted by the 47522
director pursuant to this section. 47523

Sec. 5115.22. (A) If a recipient of disability financial 47524
assistance ~~or disability medical assistance~~, or an individual 47525
whose income and resources are included in determining the 47526
recipient's eligibility for the assistance, becomes possessed of 47527
resources or income in excess of the amount allowed to retain 47528
eligibility, or if other changes occur that affect the recipient's 47529
eligibility or need for assistance, the recipient shall notify the 47530
state or county department of job and family services within the 47531
time limits specified in rules adopted by the director of job and 47532
family services in accordance with section 111.15 of the Revised 47533
Code. Failure of a recipient to report possession of excess 47534
resources or income or a change affecting eligibility or need 47535
within those time limits shall be considered prima-facie evidence 47536
of intent to defraud under section 5115.23 of the Revised Code. 47537

(B) As a condition of eligibility for disability financial 47538
assistance ~~or disability medical assistance~~, and as a means of 47539
preventing or reducing the provision of assistance at public 47540
expense, each applicant for or recipient of the assistance shall 47541
make reasonable efforts to secure support from persons responsible 47542

for the applicant's or recipient's support, and from other 47543
sources, including any federal program designed to provide 47544
assistance to individuals with disabilities. The state or county 47545
department of job and family services may provide assistance to 47546
the applicant or recipient in securing other forms of financial 47547
assistance. 47548

Sec. 5115.23. As used in this section, "erroneous payments" 47549
means disability financial assistance payments ~~or disability~~ 47550
~~medical assistance payments~~ made to persons who are not entitled 47551
to receive them, including payments made as a result of 47552
misrepresentation or fraud, and payments made due to an error by 47553
the recipient or by the county department of job and family 47554
services that made the payment. 47555

The department of job and family services shall adopt rules 47556
in accordance with section 111.15 of the Revised Code specifying 47557
the circumstances under which action is to be taken under this 47558
section to recover erroneous payments. The department, or a county 47559
department of job and family services at the request of the 47560
department, shall take action to recover erroneous payments in the 47561
circumstances specified in the rules. The department or county 47562
department may institute a civil action to recover erroneous 47563
payments. 47564

Whenever disability financial assistance ~~or disability~~ 47565
~~medical assistance~~ has been furnished to a recipient for whose 47566
support another person is responsible, the other person shall, in 47567
addition to the liability otherwise imposed, as a consequence of 47568
failure to support the recipient, be liable for all assistance 47569
furnished the recipient. The value of the assistance so furnished 47570
may be recovered in a civil action brought by the county 47571
department of job and family services. 47572

Each county department of job and family services shall 47573

retain fifty per cent of the erroneous payments it recovers under 47574
this section. The department of job and family services shall 47575
receive the remaining fifty per cent. 47576

Sec. 5119.61. Any provision in this chapter that refers to a 47577
board of alcohol, drug addiction, and mental health services also 47578
refers to the community mental health board in an alcohol, drug 47579
addiction, and mental health service district that has a community 47580
mental health board. 47581

The director of mental health with respect to all facilities 47582
and programs established and operated under Chapter 340. of the 47583
Revised Code for mentally ill and emotionally disturbed persons, 47584
shall do all of the following: 47585

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 47586
that may be necessary to carry out the purposes of Chapter 340. 47587
and sections 5119.61 to 5119.63 of the Revised Code. 47588

(1) The rules shall include all of the following: 47589

(a) Rules governing a community mental health agency's 47590
services under section 340.091 of the Revised Code to an 47591
individual referred to the agency under division (C)(2) of section 47592
173.35 of the Revised Code; 47593

(b) For the purpose of division (A)(16) of section 340.03 of 47594
the Revised Code, rules governing the duties of mental health 47595
agencies and boards of alcohol, drug addiction, and mental health 47596
services under section 3722.18 of the Revised Code regarding 47597
referrals of individuals with mental illness or severe mental 47598
disability to adult care facilities and effective arrangements for 47599
ongoing mental health services for the individuals. The rules 47600
shall do at least the following: 47601

(i) Provide for agencies and boards to participate fully in 47602
the procedures owners and managers of adult care facilities must 47603

follow under division (A)(2) of section 3722.18 of the Revised Code; 47604
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(ii) Specify the manner in which boards are accountable for 47606
ensuring that ongoing mental health services are effectively 47607
arranged for individuals with mental illness or severe mental 47608
disability who are referred by the board or mental health agency 47609
under contract with the board to an adult care facility. 47610

(c) Rules governing a board of alcohol, drug addiction, and 47611
mental health services when making a report to the director of 47612
health under section 3722.17 of the Revised Code regarding the 47613
quality of care and services provided by an adult care facility to 47614
a person with mental illness or a severe mental disability. 47615

(2) Rules may be adopted to govern the method of paying a 47616
community mental health facility, as defined in section ~~5111.022~~ 47617
5111.023 of the Revised Code, for providing services listed in 47618
division (B) of that section. Such rules must be consistent with 47619
the contract entered into between the departments of job and 47620
family services and mental health under section 5111.91 of the 47621
Revised Code and include requirements ensuring appropriate service 47622
utilization. 47623

(B) Review and evaluate, and, taking into account the 47624
findings and recommendations of the board of alcohol, drug 47625
addiction, and mental health services of the district served by 47626
the program and the requirements and priorities of the state 47627
mental health plan, including the needs of residents of the 47628
district now residing in state mental institutions, approve and 47629
allocate funds to support community programs, and make 47630
recommendations for needed improvements to boards of alcohol, drug 47631
addiction, and mental health services; 47632

(C) Withhold state and federal funds for any program, in 47633
whole or in part, from a board of alcohol, drug addiction, and 47634

mental health services in the event of failure of that program to 47635
comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, 47636
or 5119.62 of the Revised Code or rules of the department of 47637
mental health. The director shall identify the areas of 47638
noncompliance and the action necessary to achieve compliance. The 47639
director shall offer technical assistance to the board to achieve 47640
compliance. The director shall give the board a reasonable time 47641
within which to comply or to present its position that it is in 47642
compliance. Before withholding funds, a hearing shall be conducted 47643
to determine if there are continuing violations and that either 47644
assistance is rejected or the board is unable to achieve 47645
compliance. Subsequent to the hearing process, if it is determined 47646
that compliance has not been achieved, the director may allocate 47647
all or part of the withheld funds to a public or private agency to 47648
provide the services not in compliance until the time that there 47649
is compliance. The director shall establish rules pursuant to 47650
Chapter 119. of the Revised Code to implement this division. 47651

(D) Withhold state or federal funds from a board of alcohol, 47652
drug addiction, and mental health services that denies available 47653
service on the basis of religion, race, color, creed, sex, 47654
national origin, age, disability as defined in section 4112.01 of 47655
the Revised Code, developmental disability, or the inability to 47656
pay; 47657

(E) Provide consultative services to community mental health 47658
agencies with the knowledge and cooperation of the board of 47659
alcohol, drug addiction, and mental health services; 47660

(F) Provide to boards of alcohol, drug addiction, and mental 47661
health services state or federal funds, in addition to those 47662
allocated under section 5119.62 of the Revised Code, for special 47663
programs or projects the director considers necessary but for 47664
which local funds are not available; 47665

(G) Establish criteria by which a board of alcohol, drug 47666
addiction, and mental health services reviews and evaluates the 47667
quality, effectiveness, and efficiency of services provided 47668
through its community mental health plan. The criteria shall 47669
include requirements ensuring appropriate service utilization. The 47670
department shall assess a board's evaluation of services and the 47671
compliance of each board with this section, Chapter 340. or 47672
section 5119.62 of the Revised Code, and other state or federal 47673
law and regulations. The department, in cooperation with the 47674
board, periodically shall review and evaluate the quality, 47675
effectiveness, and efficiency of services provided through each 47676
board. The department shall collect information that is necessary 47677
to perform these functions. 47678

(H) Develop and operate a community mental health information 47679
system. 47680

Boards of alcohol, drug abuse, and mental health services 47681
shall submit information requested by the department in the form 47682
and manner prescribed by the department. Information collected by 47683
the department shall include, but not be limited to, all of the 47684
following: 47685

(1) Information regarding units of services provided in whole 47686
or in part under contract with a board, including diagnosis and 47687
special needs, demographic information, the number of units of 47688
service provided, past treatment, financial status, and service 47689
dates in accordance with rules adopted by the department in 47690
accordance with Chapter 119. of the Revised Code; 47691

(2) Financial information other than price or price-related 47692
data regarding expenditures of boards and community mental health 47693
agencies, including units of service provided, budgeted and actual 47694
expenses by type, and sources of funds. 47695

Boards shall submit the information specified in division 47696

(H)(1) of this section no less frequently than annually for each client, and each time the client's case is opened or closed. The department shall not collect any information for the purpose of identifying by name any person who receives a service through a board of alcohol, drug addiction, and mental health services, except as required by state or federal law to validate appropriate reimbursement. For the purposes of division (H)(1) of this section, the department shall use an identification system that is consistent with applicable nationally recognized standards.

(I) Review each board's community mental health plan submitted pursuant to section 340.03 of the Revised Code and approve or disapprove it in whole or in part. Periodically, in consultation with representatives of boards and after considering the recommendations of the medical director, the director shall issue criteria for determining when a plan is complete, criteria for plan approval or disapproval, and provisions for conditional approval. The factors that the director considers may include, but are not limited to, the following:

(1) The mental health needs of all persons residing within the board's service district, especially severely mentally disabled children, adolescents, and adults;

(2) The demonstrated quality, effectiveness, efficiency, and cultural relevance of the services provided in each service district, the extent to which any services are duplicative of other available services, and whether the services meet the needs identified above;

(3) The adequacy of the board's accounting for the expenditure of funds.

If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for

the disapproval and of the criteria that must be met before the 47728
plan may be approved. The director shall give the board a 47729
reasonable time within which to meet the criteria, and shall offer 47730
technical assistance to the board to help it meet the criteria. 47731

If the approval of a plan remains in dispute thirty days 47732
prior to the conclusion of the fiscal year in which the board's 47733
current plan is scheduled to expire, the board or the director may 47734
request that the dispute be submitted to a mutually agreed upon 47735
third-party mediator with the cost to be shared by the board and 47736
the department. The mediator shall issue to the board and the 47737
department recommendations for resolution of the dispute. Prior to 47738
the conclusion of the fiscal year in which the current plan is 47739
scheduled to expire, the director, taking into consideration the 47740
recommendations of the mediator, shall make a final determination 47741
and approve or disapprove the plan, in whole or in part. 47742

Sec. 5120.09. Under the supervision and control of the 47743
director of rehabilitation and correction, the division of 47744
business administration shall do all of the following: 47745

(A) Submit the budgets for the several divisions of the 47746
department of rehabilitation and correction, as prepared by the 47747
respective chiefs of those divisions, to the director. The 47748
director, with the assistance of the chief of the division of 47749
business administration, shall compile a departmental budget that 47750
contains all proposals submitted by the chiefs of the divisions 47751
and shall forward the departmental budget to the governor with 47752
comments and recommendations that the director considers 47753
necessary. 47754

(B) Maintain accounts and records and compile statistics that 47755
the director prescribes; 47756

(C) Under the control of the director, coordinate and make 47757

the necessary purchases and requisitions for the department and 47758
its divisions, except as provided under section 5119.16 of the 47759
Revised Code; 47760

(D) Administer within this state federal criminal justice 47761
acts that the governor requires the department to administer. In 47762
order to improve the criminal justice system of this state, the 47763
division of business administration shall apply for, allocate, 47764
disburse, and account for grants that are made available pursuant 47765
to those federal criminal justice acts and grants that are made 47766
available from other federal government sources, state government 47767
sources, or private sources. As used in this division, "criminal 47768
justice system" and "federal criminal justice acts" have the same 47769
meanings as in section ~~181.51~~ 5502.61 of the Revised Code. 47770

(E) Audit the activities of governmental entities, persons as 47771
defined in section 1.59 of the Revised Code, and other types of 47772
nongovernmental entities that are financed in whole or in part by 47773
funds that the department allocates or disburses and that are 47774
derived from grants described in division (D) of this section; 47775

(F) Enter into contracts, including contracts with federal, 47776
state, or local governmental entities, persons as defined in 47777
section 1.59 of the Revised Code, foundations, and other types of 47778
nongovernmental entities, that are necessary for the department to 47779
carry out its duties and that neither the director nor another 47780
section of the Revised Code authorizes another division of the 47781
department to enter; 47782

(G) Exercise other powers and perform other duties that the 47783
director may assign to the division of business administration. 47784

Sec. 5120.16. (A) Persons sentenced to any institution, 47785
division, or place under the control of the department of 47786
rehabilitation and correction are committed to the control, care, 47787

and custody of the department. Subject to division (B) of this 47788
section, the director of rehabilitation and correction or the 47789
director's designee may direct that persons sentenced to the 47790
department, or to any institution or place within the department, 47791
shall be conveyed initially to an appropriate facility established 47792
and maintained by the department for reception, examination, 47793
observation, and classification of the persons so sentenced. If a 47794
presentence investigation report was not prepared pursuant to 47795
section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 47796
32.2 regarding any person sentenced to the department or to any 47797
institution or place within the department, the director or the 47798
director's designee may order the department's field staff to 47799
conduct an offender background investigation and prepare an 47800
offender background investigation report regarding the person. The 47801
investigation and report shall be conducted in accordance with 47802
division (A) of section 2951.03 of the Revised Code and the report 47803
shall contain the same information as a presentence investigation 47804
report prepared pursuant to that section. 47805

When the examination, observation, and classification of the 47806
person have been completed by the facility and a written report of 47807
the examination, observation, and classification is filed with the 47808
commitment papers, the director or the director's designee, 47809
subject to division (B) of this section, shall assign the person 47810
to a suitable state institution or place maintained by the state 47811
within the director's department or shall designate that the 47812
person is to be housed in a county, multicounty, municipal, 47813
municipal-county, or multicounty-municipal jail or workhouse, if 47814
authorized by section 5120.161 of the Revised Code, there to be 47815
confined, cared for, treated, trained, and rehabilitated until 47816
paroled, released in accordance with section 2929.20, 2967.24, 47817
2967.26, or 2967.28 of the Revised Code, or otherwise released 47818
under the order of the court that imposed the person's sentence. 47819

No person committed by a probate court, a trial court pursuant to 47820
section 2945.40, 2945.401, or 2945.402 of the Revised Code 47821
subsequent to a finding of not guilty by reason of insanity, or a 47822
juvenile court shall be assigned to a state correctional 47823
institution. 47824

If a person is sentenced, committed, or assigned for the 47825
commission of a felony to any one of the institutions or places 47826
maintained by the department or to a county, multicounty, 47827
municipal, municipal-county, or multicounty-municipal jail or 47828
workhouse, the department, by order duly recorded and subject to 47829
division (B) of this section, may transfer the person to any other 47830
institution, or, if authorized by section 5120.161 of the Revised 47831
Code, to a county, multicounty, municipal, municipal-county, or 47832
multicounty-municipal jail or workhouse. 47833

(B) If the case of a child who is alleged to be a delinquent 47834
child is transferred for criminal prosecution to the appropriate 47835
court having jurisdiction of the offense pursuant to section 47836
2152.12 of the Revised Code, if the child is convicted of or 47837
pleads guilty to a felony in that case, if the child is sentenced 47838
to a prison term, as defined in section 2901.01 of the Revised 47839
Code, and if the child is under eighteen years of age when 47840
delivered to the custody of the department of rehabilitation and 47841
correction, all of the following apply regarding the housing of 47842
the child: 47843

(1) Until the child attains eighteen years of age, subject to 47844
divisions (B)(2), (3), and (4) of this section, the department 47845
shall house the child in a housing unit in a state correctional 47846
institution separate from inmates who are eighteen years of age or 47847
older. 47848

(2) The department is not required to house the child in the 47849
manner described in division (B)(1) of this section if the child 47850
does not observe the rules and regulations of the institution or 47851

the child otherwise creates a security risk by being housed 47852
separately. 47853

(3) If the department receives too few inmates who are under 47854
eighteen years of age to fill a housing unit in a state 47855
correctional institution separate from inmates who are eighteen 47856
years of age or older, as described in division (B)(1) of this 47857
section, the department may house the child in a housing unit in a 47858
state correctional institution that includes both inmates who are 47859
under eighteen years of age and inmates who are eighteen years of 47860
age or older and under twenty-one years of age. 47861

(4) Upon the child's attainment of eighteen years of age, the 47862
department may house the child with the adult population of the 47863
state correctional institution. 47864

(C) The director or the director's designee shall develop a 47865
policy for dealing with problems related to infection with the 47866
human immunodeficiency virus. The policy shall include methods of 47867
identifying individuals committed to the custody of the department 47868
who are at high risk of infection with the virus and counseling 47869
those individuals. 47870

Arrangements for housing individuals diagnosed as having AIDS 47871
or an AIDS-related condition shall be made by the department based 47872
on security and medical considerations and in accordance with 47873
division (B) of this section, if applicable. 47874

Sec. 5120.48. (A) If a prisoner escapes from a state 47875
correctional institution, the managing officer of the institution, 47876
after consultation with and upon the advice of appropriate law 47877
enforcement officials, shall assign and deploy into the community 47878
appropriate staff persons necessary to apprehend the prisoner. 47879
Correctional officers and officials may carry firearms when 47880
required in the discharge of their duties in apprehending, taking 47881

into custody, or transporting to a place of confinement a prisoner 47882
who has escaped from a state correctional institution. 47883

(B) If a prisoner is released from a state correctional 47884
institution prior to the lawful end of the person's prison term or 47885
term of imprisonment, whether by error, inadvertence, fraud, or 47886
any other cause except a lawful parole, a release pursuant to 47887
section 2967.24 of the Revised Code, or a judicial release granted 47888
pursuant to section 2929.20 of the Revised Code, the managing 47889
officer of the institution, after consulting with the bureau of 47890
sentence computation, shall notify the chief of the adult parole 47891
authority, the office of victim services of the division of parole 47892
and community services, and the sentencing court of the mistaken 47893
release. Upon the direction of the chief, or the chief's designee, 47894
field officers of the authority may arrest the prisoner without a 47895
warrant and return the prisoner to the state correctional 47896
institution to complete the balance of the prisoner's sentence. 47897
The chief of the adult parole authority, or the chief's designee, 47898
may require the assistance of any peace officer or law enforcement 47899
officer in the apprehension of a prisoner of that nature. 47900

Sec. 5120.51. (A)(1) If the director of rehabilitation and 47901
correction determines that a bill introduced in the general 47902
assembly is likely to have a significant impact on the population 47903
of, or the cost of operating, any or all state correctional 47904
institutions under the administration of the department of 47905
rehabilitation and correction, the department shall prepare a 47906
population and cost impact statement for the bill, in accordance 47907
with division (A)(2) of this section. 47908

(2) A population and cost impact statement required for a 47909
bill ~~shall~~ shall estimate the increase or decrease in the 47910
correctional institution population that likely would result if 47911
the bill were enacted, shall estimate, in dollars, the amount by 47912

which revenues or expenditures likely would increase or decrease 47913
if the bill were enacted, and briefly shall explain each of the 47914
estimates. 47915

A population and cost impact statement required for a bill 47916
initially shall be prepared after the bill is referred to a 47917
committee of the general assembly in the house of origination but 47918
before the meeting of the committee at which the committee is 47919
scheduled to vote on whether to recommend the bill for passage. A 47920
copy of the statement shall be distributed to each member of the 47921
committee that is considering the bill and to the member of the 47922
general assembly who introduced it. If the bill is recommended for 47923
passage by the committee, the department shall update the 47924
statement before the bill is taken up for final consideration by 47925
the house of origination. A copy of the updated statement shall be 47926
distributed to each member of that house and to the member of the 47927
general assembly who introduced the bill. If the bill is passed by 47928
the house of origination and is introduced in the second house, 47929
the provisions of this division concerning the preparation, 47930
updating, and distribution of the statement in the house of 47931
origination also apply in the second house. 47932

(B) The governor or any member of the general assembly, at 47933
any time, may request the department to prepare a population and 47934
cost impact statement for any bill introduced in the general 47935
assembly. Upon receipt of a request, the department promptly shall 47936
prepare a statement that includes the estimates and explanations 47937
described in division (A)(2) of this section and present a copy of 47938
it to the governor or member who made the request. 47939

(C) In the preparation of a population and cost impact 47940
statement required by division (A) or (B) of this section, the 47941
department shall use a technologically sophisticated system 47942
capable of estimating future state correctional institution 47943
populations. The system shall have the capability to adjust its 47944

estimates based on actual and proposed changes in sentencing laws 47945
and trends, sentence durations, parole rates, crime rates, and any 47946
other data that affect state correctional institution populations. 47947
The department, in conjunction with the advisory committee 47948
appointed under division (E) of this section, shall review and 47949
update the data used in the system, not less than once every six 47950
months, to improve the accuracy of the system. 47951

(D) At least once every six months, the department shall 47952
provide to the correctional institution inspection committee a 47953
copy of the estimates of state correctional institution 47954
populations obtained through use of the system described in 47955
division (C) of this section and a description of the assumptions 47956
regarding sentencing laws and trends, sentence durations, parole 47957
rates, crime rates, and other relevant data that were made by the 47958
department to obtain the estimates. Additionally, a copy of the 47959
estimates and a description of the assumptions made to obtain them 47960
shall be provided, upon reasonable request, to other legislative 47961
staff, including the staff of the legislative service commission 47962
~~and the legislative budget office of the legislative service~~ 47963
~~commission~~, to the office of budget and management, and to the 47964
~~office~~ division of criminal justice services in the department of 47965
public safety. 47966

(E) The correctional institution inspection committee shall 47967
appoint an advisory committee to review the operation of the 47968
system for estimating future state correctional institution 47969
populations that is used by the department in the preparation of 47970
population cost impact statements pursuant to this section and to 47971
join with the department in its reviews and updating of the data 47972
used in the system under division (C) of this section. The 47973
advisory committee shall be comprised of at least one prosecuting 47974
attorney, at least one common pleas court judge, at least one 47975
public defender, at least one person who is a member or staff 47976

employee of the committee, and at least one representative of the
~~office~~ division of criminal justice services in the department of
public safety.

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Sec. ~~5121.03~~ 5121.01. As used in ~~this chapter~~ sections
5121.01 to 5121.21 of the Revised Code:

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(A) ~~Patient means a person receiving care or treatment in a~~
~~program or facility that provides services to mentally ill~~
~~individuals.~~

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~~(B)~~ "The department" means the department of mental health or
the department of mental retardation and developmental
disabilities, whichever provides care or treatment to the ~~patient~~
recipient or resident.

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~~(C)~~(B) "Resident" means a person admitted to an institution
or other facility pursuant to Chapter 5123. of the Revised Code
who is under observation or receiving habilitation and care in an
institution for the mentally retarded.

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(C) "Community mental health services recipient" or
"recipient" means a person receiving state-operated community
mental health services.

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(D) "State-operated community mental health services" means
community-based services the department of mental health operates
for a board of alcohol, drug addiction, and mental health services
pursuant to a community mental health plan approved under division
(A)(1)(c) of section 340.03 of the Revised Code.

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(E) "Applicable cost" means the rate for support applicable
to a ~~patient or resident~~ or recipient as specified in this
section.

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The cost for support of ~~patients in hospitals and~~ residents
in institutions under the jurisdiction of ~~the department of mental~~
~~health or~~ the department of mental retardation and developmental

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disabilities, and of residents in private facilities or homes 48007
whose care or treatment is being paid for by the department of 48008
mental retardation and developmental disabilities, shall be based 48009
on the average per capita cost of the care and treatment of such 48010
~~patients or~~ residents. The cost of services for ~~mentally ill~~ 48011
~~patients or~~ mentally retarded residents shall be computed using 48012
the projected average daily per capita cost at the ~~hospital or~~ 48013
institution, or at the discretion of the department under the 48014
jurisdiction of which the ~~hospital or~~ institution is operated, the 48015
subunit thereof in which services are provided. Such costs shall 48016
be computed at least annually for the next prospective period 48017
using generally accepted governmental accounting principles. The 48018
cost of services for mentally retarded residents that are being 48019
cared for and maintained in a private facility or home under the 48020
supervision of the department of mental retardation and 48021
developmental disabilities regional offices and for which a 48022
purchase of services contract is being paid to the private 48023
facility or home by the department shall not be more than the per 48024
diem cost of the contract. The cost of services for a resident 48025
receiving pre-admission care, after-care, day-care, or routine 48026
consultation and treatment services in a community service unit 48027
under the jurisdiction of the department, shall be computed on the 48028
basis of the average cost of such services at the institution at 48029
which they are provided. 48030

The cost for support of a ~~patient receiving~~ recipient of 48031
state-operated community mental health services is an amount 48032
determined using guidelines the department of mental health shall 48033
issue. The guidelines shall be based on cost-findings and 48034
rate-settings applicable to such services. 48035

The appropriate department shall annually determine the 48036
ability to pay of a ~~patient or~~ resident, recipient, or the 48037
~~patient's or~~ resident's or recipient's liable relatives and the 48038

amount that such person shall pay in accordance with section 48039
5121.04 of the Revised Code. 48040

Collections of support payments shall be made by the 48041
department of mental health and the department of mental 48042
retardation and developmental disabilities and, subject to meeting 48043
prior requirements for payment and crediting of such collections 48044
and other available receipts, in accordance with the bond 48045
proceedings applicable to obligations issued pursuant to section 48046
154.20 of the Revised Code, such collections and other available 48047
receipts designated by the director of the department of mental 48048
health and the director of the department of mental retardation 48049
and developmental disabilities for deposit in the special 48050
accounts, together with insurance contract payments provided for 48051
in division (B)(8) of section 5121.04 of the Revised Code, shall 48052
be remitted to the treasurer of state for deposit in the state 48053
treasury to the credit of the mental health operating fund and the 48054
mental retardation operating fund, which are hereby created, to be 48055
used for the general purposes of the department of mental health 48056
and the department of mental retardation and developmental 48057
disabilities. The department of mental health shall make refunds 48058
of overpayment of support charges from the mental health operating 48059
fund, and the department of mental retardation and developmental 48060
disabilities shall make refunds of overpayment of support charges 48061
from the mental retardation operating fund. 48062

Sec. ~~5121.01~~ 5121.02. All ~~patients or residents of a~~ 48063
~~benevolent~~ admitted to an institution, or facility pursuant to 48064
Chapter 5123. of the Revised Code shall be maintained at the 48065
expense of the state. Their traveling and incidental expenses in 48066
conveying them to the institution or facility shall be paid by the 48067
county of commitment. Upon admission, the ~~patients or residents~~ 48068
shall be neatly and comfortably clothed. Thereafter, the expense 48069
of necessary clothing shall be borne by the responsible relatives 48070

or guardian if they are financially able. If not furnished, the 48071
state shall bear the expense. Any required traveling expense after 48072
admission to the institution or facility shall be borne by the 48073
state if the responsible relatives or guardian are unable to do 48074
so. 48075

Sec. ~~5121.02~~ 5121.03. When any person is committed to an 48076
institution under the jurisdiction of ~~the department of mental~~ 48077
~~health or~~ the department of mental retardation and developmental 48078
disabilities pursuant to judicial proceedings, the judge ordering 48079
such commitment shall: 48080

(A) Make a reliable report on the financial condition of such 48081
person and of each of the relatives of the person who are liable 48082
for ~~his~~ the person's support, as provided in section 5121.06 of 48083
the Revised Code and rules and procedures agreed upon by ~~the~~ 48084
~~director of mental health and~~ the director of mental retardation 48085
and developmental disabilities; 48086

(B) Certify to the managing officer of such institution, and 48087
the managing officer shall thereupon enter upon ~~his~~ the managing 48088
officer's records the name and address of any guardian appointed 48089
and of any relative liable for such person's support under section 48090
5121.06 of the Revised Code. 48091

Sec. 5121.04. (A) The ~~department of mental health and the~~ 48092
department of mental retardation and developmental disabilities 48093
shall investigate the financial condition of the ~~patients in~~ 48094
~~hospitals and~~ residents in institutions, residents whose care or 48095
treatment is being paid for in a private facility or home under 48096
the control of the department of mental retardation and 48097
developmental disabilities, and of the relatives named in section 48098
5121.06 of the Revised Code as liable for the support of such 48099
~~patients or~~ residents, in order to determine the ability of any 48100

~~patient, resident, or such~~ relatives of residents to pay for the 48101
support of the ~~patient or~~ resident and to provide suitable 48102
clothing as required by the superintendent of the institution. 48103

The department of mental health shall investigate the 48104
financial condition of ~~patients receiving state operated community~~ 48105
~~mental health services~~ recipients and of the liable relatives of 48106
recipients to determine the ~~patient's~~ recipient's or relative's 48107
ability to pay for the ~~patient's~~ recipient's support. In all 48108
cases, in determining ability to pay and the amount to be charged, 48109
due regard shall be had for others who may be dependent for 48110
support upon such relatives or the estate of the ~~patient~~ 48111
recipient. 48112

(B) The department shall follow the provisions of this 48113
division in determining the ability to pay of a ~~patient or~~ 48114
resident or recipient or the ~~patient's or~~ resident's or 48115
recipient's liable relatives and the amount to be charged such 48116
~~patient or~~ resident, recipient, or liable relatives. 48117

(1) Subject to divisions (B)(10) and (11) of this section, a 48118
~~patient or~~ resident or recipient without dependents shall be 48119
liable for the full applicable cost. A ~~patient or~~ resident or 48120
recipient without dependents who has a gross annual income equal 48121
to or exceeding the sum of the full applicable cost, plus fifty 48122
dollars per month, regardless of the source of such income, shall 48123
pay currently the full amount of the applicable cost; if the 48124
~~patient's or~~ resident's or recipient's gross annual income is less 48125
than such sum, not more than fifty dollars per month shall be kept 48126
for personal use by or on behalf of the ~~patient or~~ resident or 48127
recipient, except as permitted in the state plan for providing 48128
medical assistance under Title XIX of the "Social Security Act," 48129
49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and the balance 48130
shall be paid currently on the ~~patient's or~~ resident's or 48131
recipient's support. Subject to divisions (B)(10) and (11) of this 48132

section, the estate of a ~~patient or~~ resident or recipient without 48133
dependents shall pay currently any remaining difference between 48134
the applicable cost and the amounts prescribed in this section, or 48135
shall execute an agreement with the department for payment to be 48136
made at some future date under terms suitable to the department. 48137
However, no security interest, mortgage, or lien shall be taken, 48138
granted, or charged against any principal residence of a ~~patient~~ 48139
~~or~~ resident or recipient without dependents under an agreement or 48140
otherwise to secure support payments, and no foreclosure actions 48141
shall be taken on security interests, mortgages, or liens taken, 48142
granted, or charged against principal residences of ~~patients or~~ 48143
residents or recipients prior to October 7, 1977. 48144

(2) The ability to pay of a ~~patient or~~ resident or recipient 48145
with dependents, or of a liable relative of a ~~patient or~~ resident 48146
or recipient either with or without dependents, shall be 48147
determined in accordance with the ~~patient's, resident's,~~ 48148
recipient's, or liable relative's income or other assets, the 48149
needs of others who are dependent on such income and other assets 48150
for support, and, if applicable, divisions (B)(10) and (11) of 48151
this section. 48152

For the first thirty days of care and treatment of each 48153
admission and for the first thirty days of care and treatment from 48154
state-operated community mental health services, but in no event 48155
for more than thirty days in any calendar year, the ~~mentally ill~~ 48156
~~patient or mentally retarded~~ resident or recipient with dependents 48157
or the liable relative of a ~~mentally ill patient or a mentally~~ 48158
~~retarded~~ resident or recipient either with or without dependents 48159
shall be charged an amount equal to the percentage of the average 48160
applicable cost determined in accordance with the schedule of 48161
adjusted gross annual income contained after this paragraph. After 48162
such first thirty days of care and treatment, such ~~mentally ill~~ 48163
~~patient or mentally retarded~~ resident, recipient, or such liable 48164

Footnote b. The number of dependents includes the liable 48198
relative but excludes ~~the patient or a~~ resident in the ~~hospital or~~ 48199
an institution. "Dependent" includes any person who receives more 48200
than half the person's support from the ~~patient resident,~~ 48201
recipient, or the ~~patient's~~ resident's or recipient's liable 48202
relative. 48203

(3) A ~~patient or~~ resident, recipient, or liable relative 48204
having medical, funeral, or related expenses in excess of four per 48205
cent of the adjusted gross annual income, which expenses were not 48206
covered by insurance, may adjust such gross annual income by 48207
reducing the adjusted gross annual income by the full amount of 48208
such expenses. Proof of such expenses satisfactory to the 48209
department must be furnished. 48210

(4) Additional dependencies may be claimed if: 48211

(a) The liable relative is blind; 48212

(b) The liable relative is over sixty-five; 48213

(c) A child is a college student with expenses in excess of 48214
fifty dollars per month; 48215

(d) The services of a housekeeper, costing in excess of fifty 48216
dollars per month, are required if the person who normally keeps 48217
house for minor children is the ~~patient or~~ resident or recipient. 48218

(5) If with respect to any ~~patient or~~ resident or recipient 48219
with dependents there is chargeable under division (B)(2) of this 48220
section less than fifty per cent of the applicable cost or, if the 48221
base support rate was used, less than fifty per cent of the amount 48222
determined by use of the base support rate, and if with respect to 48223
such ~~patient or~~ resident or recipient there is a liable relative 48224
who has an estate having a value in excess of fifteen thousand 48225
dollars or if such ~~patient or~~ resident or recipient has a 48226
dependent and an estate having a value in excess of fifteen 48227

thousand dollars, there shall be paid with respect to such ~~patient~~ 48228
~~or~~ resident or recipient a total of fifty per cent of the 48229
applicable cost or the base support rate amount, as the case may 48230
be, on a current basis or there shall be executed with respect to 48231
such ~~patient~~~~or~~ resident or recipient an agreement with the 48232
department for payment to be made at some future date under terms 48233
suitable to the department. 48234

(6) When a person has been a ~~patient~~~~or~~ resident or recipient 48235
for fifteen years and the support charges for which a relative is 48236
liable have been paid for the fifteen-year period, the liable 48237
relative shall be relieved of any further support charges. 48238

(7) The department shall accept voluntary payments from 48239
~~patients~~~~or~~ residents, recipients, or liable relatives whose 48240
incomes are below the minimum shown in the schedule set forth in 48241
this division. The department also shall accept voluntary payments 48242
in excess of required amounts from both liable and nonliable 48243
relatives. 48244

(8) If a ~~patient~~~~or~~ resident or recipient is covered by an 48245
insurance policy, or other contract that provides for payment of 48246
expenses for care and treatment for mental illness or mental 48247
retardation at or from an institution, or facility (including a 48248
~~hospital~~~~or~~ community service unit under the jurisdiction of the 48249
department), or state-operated community mental health service, 48250
the other provisions of this section, except divisions (B)(8), 48251
(10), and (11) of this section, and of section ~~5121.03~~ 5121.01 of 48252
the Revised Code shall be suspended to the extent that such 48253
insurance policy or other contract is in force, and such ~~patient~~ 48254
~~or~~ resident or recipient shall be charged the full amount of the 48255
applicable cost. Any insurance carrier or other third party payor 48256
providing coverage for such care and treatment shall pay for this 48257
support obligation in an amount equal to the lesser of either the 48258
applicable cost or the benefits provided under the policy or other 48259

contract. Whether or not an insured, owner of, or other person 48260
having an interest in such policy or other contract is liable for 48261
support payments under other provisions of this chapter, the 48262
insured, policy owner, or other person shall assign payment 48263
directly to the department of all assignable benefits under the 48264
policy or other contract and shall pay over to the department, 48265
within ten days of receipt, all insurance or other benefits 48266
received as reimbursement or payment for expenses incurred by the 48267
~~patient or~~ resident or recipient or for any other reason. If the 48268
insured, policy owner, or other person refuses to assign such 48269
payment to the department or refuses to pay such received 48270
reimbursements or payments over to the department within ten days 48271
of receipt, the insured's, policy owners', or other person's total 48272
liability for the services equals the applicable statutory 48273
liability for payment for the services as determined under other 48274
provisions of this chapter, plus the amounts payable under the 48275
terms of the policy or other contract. In no event shall this 48276
total liability exceed the full amount of the applicable cost. 48277
Upon its request, the department is entitled to a court order that 48278
compels the insured, owner of, or other person having an interest 48279
in the policy or other contract to comply with the assignment 48280
requirements of this division or that itself serves as a legally 48281
sufficient assignment in compliance with such requirements. 48282
Notwithstanding section 5122.31 of the Revised Code and any other 48283
law relating to confidentiality of records, the managing officer 48284
of the institution or facility where a person is or has been a 48285
~~patient or~~ resident, or the managing officer of the state-operated 48286
community mental health services from which the ~~patient~~ recipient 48287
receives services, shall disclose pertinent medical information 48288
concerning the ~~patient or~~ resident or recipient to the insurance 48289
carrier or other third party payor in question, in order to effect 48290
collection from the carrier or payor of the state's claim for care 48291
and treatment under this division. For such disclosure, the 48292

managing officer is not subject to any civil or criminal liability. 48293
48294

(9) The rate to be charged for pre-admission care, 48295
after-care, day-care, or routine consultation and treatment 48296
services shall be based upon the ability of the ~~patient or~~ 48297
resident or the ~~patient's or~~ resident's liable relatives to pay. 48298
When it is determined by the department that a charge shall be 48299
made, such charge shall be computed as provided in divisions 48300
(B)(1) and (2) of this section. 48301

(10) If a ~~patient or~~ resident or recipient with or without 48302
dependents is the beneficiary of a trust created pursuant to 48303
section 1339.51 of the Revised Code, then, notwithstanding any 48304
contrary provision of this chapter or of a rule adopted pursuant 48305
to this chapter, divisions (C) and (D) of that section shall apply 48306
in determining the assets or resources of the ~~patient or~~ resident, 48307
the recipient, the ~~patient's or~~ resident's or recipient's estate, 48308
the settlor, or the settlor's estate and to claims arising under 48309
this chapter against the ~~patient or~~ resident, the recipient, the 48310
~~patient's or~~ resident's or recipient's estate, the settlor, or the 48311
settlor's estate. 48312

(11) If the department of mental retardation and 48313
developmental disabilities waives the liability of an individual 48314
and the individual's liable relatives pursuant to section 5123.194 48315
of the Revised Code, the liability of the individual and relative 48316
ceases in accordance with the waiver's terms. 48317

(C) The department may enter into agreements with a ~~patient~~ 48318
~~or~~ resident, a recipient, or a liable relative for support 48319
payments to be made in the future. However, no security interest, 48320
mortgage, or lien shall be taken, granted, or charged against any 48321
principal family residence of a ~~patient or~~ resident or recipient 48322
with dependents or a liable relative under an agreement or 48323
otherwise to secure support payments, and no foreclosure actions 48324

shall be taken on security interests, mortgages or liens taken, 48325
granted, or charged against principal residences of ~~patients or~~ 48326
residents, recipients, or liable relatives prior to October 7, 48327
1977. 48328

(D) The department shall make all investigations and 48329
determinations required by this section within ninety days after a 48330
~~patient or~~ resident is admitted to an institution under the 48331
department's control or a ~~patient~~ recipient begins to receive 48332
state-operated community mental health services, and immediately 48333
shall notify by mail the persons liable of the amount to be 48334
charged. 48335

(E) All actions to enforce the collection of payments agreed 48336
upon or charged by the department shall be commenced within six 48337
years after the date of default of an agreement to pay support 48338
charges or the date such payment becomes delinquent. If a payment 48339
is made pursuant to an agreement which is in default, a new 48340
six-year period for actions to enforce the collection of payments 48341
under such agreement shall be computed from the date of such 48342
payment. For purposes of this division an agreement is in default 48343
or a payment is delinquent if a payment is not made within thirty 48344
days after it is incurred or a payment, pursuant to an agreement, 48345
is not made within thirty days after the date specified for such 48346
payment. In all actions to enforce the collection of payment for 48347
the liability for support, every court of record shall receive 48348
into evidence the proof of claim made by the state together with 48349
all debts and credits, and it shall be prima-facie evidence of the 48350
facts contained in it. 48351

Sec. 5121.05. The department of mental health and the 48352
department of mental retardation and developmental disabilities 48353
may subpoena witnesses, take testimony under oath, and examine any 48354
public records relating to the income and other assets of a 48355

~~patient or~~ resident, recipient, or of a relative liable for such 48356
~~patient's or~~ resident's or recipient's support. All information, 48357
conclusions, and recommendations shall be submitted to the 48358
department by the investigating agent of the department. The 48359
department shall determine the amount of support to be paid, by 48360
whom, and whether clothing shall be furnished by the relatives or 48361
guardian. 48362

Sec. 5121.06. (A) The following persons other than the 48363
~~patient or~~ resident, the recipient, or the ~~patient's or~~ resident's 48364
or recipient's estate are liable relatives and all the following 48365
persons are jointly and severally liable for the support of a 48366
~~patient or~~ resident in a ~~hospital or~~ institution under the control 48367
of ~~the department of mental health or~~ the department of mental 48368
retardation and developmental disabilities or for the support of a 48369
~~patient receiving~~ recipient of state-operated community mental 48370
health services: 48371

(1) The ~~patient or~~ resident, the recipient, or the ~~patient's~~ 48372
~~or~~ resident's or recipient's estate; 48373

(2) The ~~patient's or~~ resident's or recipient's spouse; 48374

(3) The father or mother, or both, of a minor ~~patient or~~ 48375
resident or recipient under the age of eighteen years. 48376

(B) The department shall determine, pursuant to section 48377
5121.04 of the Revised Code, the amount to be charged each such 48378
liable person in the order named in this section, but shall not 48379
collect from any person more than one hundred per cent of the 48380
applicable cost. 48381

(C) An action to collect delinquent payments or to enforce 48382
agreements in default may be brought against any or all persons 48383
named in this section. To the extent parents of adult ~~patients or~~ 48384
residents or recipients, pursuant to the language of this section 48385

previously in force, incurred charges for the support of such 48386
~~patients or residents~~ or recipients between the eighteenth 48387
birthday of such ~~patient or resident~~ or recipient and July 1, 48388
1975, their liability for such period may be cancelled, 48389
compromised, or settled as provided in section 5121.07 of the 48390
Revised Code. 48391

(D) Irrespective of the number of ~~patients or residents~~ or 48392
recipients whose care might be chargeable against a liable 48393
relative, no individual liable relative nor any group of liable 48394
relatives who are members of the same family unit shall be charged 48395
with the support of more than one ~~patient or resident~~ or recipient 48396
during the same period of time, and different periods of time for 48397
which such liable relative has paid the charges for such different 48398
~~patients' or residents'~~ or recipients' care and support shall be 48399
added together for the purpose of completing the maximum 48400
fifteen-year period of liability of such liable relative under 48401
division (B)(6) of section 5121.04 of the Revised Code. 48402

Sec. 5121.061. The authority of the department of mental 48403
health or the department of mental retardation and developmental 48404
disabilities to modify support charges pursuant to section 5121.04 48405
of the Revised Code shall not be exercised until the ~~patient or~~ 48406
resident, recipient, or liable relative has petitioned the 48407
department for modification as provided in section 5121.07 of the 48408
Revised Code and has offered to the department satisfactory proof 48409
of ~~his~~ the resident's, recipient's, or liable relative's earnings 48410
and assets. The department may modify the charges if its 48411
investigation warrants such modification. 48412

Sec. 5121.07. Any person who has been charged with the 48413
payment of the support of a ~~patient or~~ resident of any benevolent 48414
institution; for pre-admission care, after-care, day-care, or 48415
routine consultation and treatment services in a community service 48416

unit under the control of ~~the department of mental health or the~~ 48417
department of mental retardation and developmental disabilities; 48418
or for the cost of state-operated community mental health services 48419
may petition the department for a release from, or modification 48420
of, such charge, and the department, after an investigation, may 48421
cancel or modify such former charge, or may cancel, compromise, or 48422
settle any accrued liability in an amount not exceeding five 48423
thousand dollars. Amounts in excess thereof may be canceled, 48424
compromised, or settled as provided in section 131.02 of the 48425
Revised Code. The department may for due cause increase the amount 48426
previously ordered paid. 48427

Sec. 5121.08. The managing officers of the benevolent 48428
institutions under the control of ~~the department of mental health~~ 48429
~~and~~ the department of mental retardation and developmental 48430
disabilities, the managing officers of state-operated community 48431
mental health services, and the committing court, if requested, 48432
shall submit to the department such information as they may obtain 48433
concerning the financial condition of any ~~patient or resident,~~ 48434
recipient, or of relatives liable for the ~~patient's or resident's~~ 48435
or recipient's support. 48436

Sec. 5121.09. In case the estate of any ~~patient or resident~~ 48437
in a benevolent institution under the jurisdiction of ~~the~~ 48438
~~department of mental health or~~ the department of mental 48439
retardation and developmental disabilities or ~~receiving~~ recipient 48440
of state-operated community mental health services is sufficient 48441
for the ~~patient's or resident's~~ or recipient's support, without 48442
hardship to any others who may be dependent thereon, and no 48443
guardian has been appointed for such estate, the agent of the 48444
department shall petition the probate court of the proper county 48445
to appoint a guardian. 48446

Sec. 5121.10. Upon the death of a person who is a ~~patient or~~ 48447
resident, or has been a ~~patient or~~ resident, of any benevolent 48448
institution under the jurisdiction of ~~the department of mental~~ 48449
~~health or~~ the department of mental retardation and developmental 48450
disabilities or of a person who is a recipient or has been a 48451
recipient of state-operated community mental health services, or 48452
~~upon the death~~ of a person responsible under section 5121.06 of 48453
the Revised Code for the support of a ~~patient or~~ resident or 48454
recipient, the department may waive the presentation of any claim 48455
for support against the estate of such decedent, when in its 48456
judgment an otherwise dependent person will be directly benefited 48457
by the estate. Claims against an estate for support of a ~~patient~~ 48458
~~or~~ resident or recipient are subject to section 1339.51 and 48459
Chapter 2117. of the Revised Code, and shall be treated, and may 48460
be barred, the same as the claims of other creditors of the 48461
estate, pursuant to that section or chapter. 48462

The department may accept from a guardian or trustee of a 48463
~~patient or~~ resident or recipient a contract agreeing to pay to the 48464
state from the property of the guardian's or trustee's ward before 48465
or at the death of the ward a fixed annual amount for the support 48466
of the ward while the ward is a ~~patient or~~ resident or recipient, 48467
with interest at four per cent per annum. A copy of the contract 48468
shall be filed in the probate court of the proper county and duly 48469
entered as a part of the records concerning the ward. 48470

Sec. 5121.11. The state shall bear the expense of the burial 48471
or cremation of an indigent ~~patient or~~ resident who dies in a 48472
~~state hospital for the mentally ill, or an~~ institution for the 48473
mentally retarded, or in a state correctional institution, if the 48474
body is not claimed for interment or cremation at the expense of 48475
friends or relatives, or is not delivered for anatomical purposes 48476
or for the study of embalming in accordance with section 1713.34 48477

of the Revised Code. The managing officer of the institution shall 48478
provide at the grave of the person or, if the person's cremated 48479
remains are buried, at the grave of the person's cremated remains, 48480
a metal, stone, or concrete marker on which shall be inscribed the 48481
name and age of the person and the date of death. 48482

Sec. 5121.12. The support and maintenance of ~~patients~~ 48483
~~confined in state hospitals for the mentally ill or of~~ residents 48484
confined in state institutions for the mentally retarded, 48485
including those transferred to them from state correctional 48486
institutions, and also including persons under indictment or 48487
conviction for crime, shall be collected and paid in accordance 48488
with this chapter. 48489

Sec. 5121.21. ~~(A)~~ If payment of any amount due the state 48490
under the provisions of Chapter 5121. of the Revised Code is made 48491
on account of a ~~patient or resident~~ or recipient by any liable 48492
relative, as defined in division (A) of section 5121.06 of the 48493
Revised Code, such relative may recover the following amounts from 48494
the following persons; provided, that in no event may such 48495
relative recover in total more than such relative has paid the 48496
state, and provided, that in no event is the person from whom 48497
recovery is sought obliged to pay at a rate of support higher than 48498
such person would have paid had the state proceeded directly 48499
against such person: 48500

~~(1)~~(A) Any liable person may recover from the ~~patient or~~ 48501
resident or recipient, ~~his the resident's or recipient's~~ guardian, 48502
or from the executor or administrator of the ~~patient's or~~ 48503
resident's or recipient's estate, the full amount of payment made 48504
by such liable relative. 48505

~~(2)~~(B) Any liable relative may recover from the ~~patient's or~~ 48506
resident's ~~husband or wife,~~ or recipient's spouse the full amount 48507

of payment made by such liable relative. 48508

~~(3)(C)~~ A minor ~~patient's or~~ resident's or recipient's mother 48509
may recover from such minor ~~patient's or~~ resident's or recipient's 48510
father the full amount of payment made by such mother. 48511

~~(4)(D)~~ Any liable relative, other than the ~~patient's or~~ 48512
resident's or recipient's spouse ~~and other than or~~ a minor 48513
~~patient's or~~ resident's or recipient's parent, may recover from 48514
such ~~of a patient's or~~ resident's or recipient's adult ~~sons and~~ 48515
~~daughters~~ children as are liable under division (A)(4) of section 48516
5121.06 of the Revised Code, the full amount of payment made by 48517
such liable relative; provided, that there may be recovered from 48518
each such ~~son or daughter~~ adult child only such proportion of the 48519
total payment as the figure one bears to the total number of such 48520
adult ~~sons and daughters~~ children. 48521

~~(5)(E)~~ An adult ~~patient's or~~ resident's or recipient's mother 48522
may recover from an adult ~~patient's or~~ resident's or recipient's 48523
father the full amount of payment made by such mother. 48524

Sec. 5121.30. As used in sections 5121.30 to 5121.55 of the 48525
Revised Code: 48526

(A) "Countable assets" means all of the following: 48527

(1) Cash; 48528

(2) Bank deposits; 48529

(3) Securities; 48530

(4) Individual retirement accounts; 48531

(5) Qualified employer plans, including 401(k) and Keogh 48532
plans; 48533

(6) Pension funds; 48534

(7) Annuities; 48535

<u>(8) Funds in a trust created under section 1339.51 of the Revised Code;</u>	48536
<u>(9) Investment property and income;</u>	48537
<u>(10) The cash surrender values of life insurance policies;</u>	48538
<u>(11) Assets acquired by gift, bequest, devise, or inheritance;</u>	48539
<u>(12) Any other asset determined by the department of mental health to be equivalent to the assets enumerated in this division.</u>	48540
<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>	48541
<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>	48542
<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>	48543
<u>(E) "Liable relative" means both of the following:</u>	48544
<u>(1) A patient's spouse;</u>	48545
<u>(2) A patient's mother or father, or both, if the patient is under eighteen years of age.</u>	48546
<u>(F) "Patient" means a person admitted to a hospital for</u>	48547

inpatient care or treatment.

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Sec. 5121.31. All patients shall be maintained at the expense of the state. The traveling and incidental expenses in conveying them to a hospital shall be paid by the county of commitment. On admission, patients shall be neatly and comfortably clothed. Thereafter, the expense of necessary clothing shall be borne by the responsible relatives or guardian if they are financially able. If not furnished, the state shall bear the expense. Any required traveling expense after admission to the hospital shall be borne by the state if the responsible relatives or guardian is unable to do so.

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Sec. 5121.32. On an annual basis, the department of mental health shall determine both of the following using generally accepted governmental accounting principles:

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(A) The applicable per diem charge for each hospital operated by the department;

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(B) The ancillary per diem rate for each hospital operated by the department.

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In determining a hospital's applicable per diem charge and ancillary per diem rate, the department shall consider the average actual per diem cost of maintaining and treating a patient at the hospital or, at the department's discretion, the average actual per diem cost of maintaining and treating a patient in a unit of the hospital.

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Sec. 5121.33. Except as provided in sections 5121.35, 5121.43, 5121.46, 5121.47, 5121.49, and 5121.52 of the Revised Code, the department of mental health shall, for each billing cycle, charge a patient, patient's estate, or liable relative an amount equal to the sum of the following:

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(A) The applicable per diem charge multiplied by the number of days the patient was admitted to the hospital; 48594
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(B) An amount that was previously billed but not paid. 48596

Sec. 5121.34. A patient, patient's estate, and patient's liable relatives shall be jointly and severally liable for amounts charged by the department of mental health in accordance with sections 5121.33 and 5121.35 of the Revised Code. In no case shall any of the foregoing persons be liable for more than one hundred per cent of any amount charged. 48597
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Sec. 5121.35. The department of mental health shall charge a patient, patient's estate, or liable relative an amount discounted from the amount the department charges under section 5121.33 of the Revised Code if the department determines through the application process described in section 5121.36 of the Revised Code or through the financial assessment process described in section 5121.37 of the Revised Code that the patient, estate, or relative is eligible for a discount. 48603
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Sec. 5121.36. (A) A patient, patient's estate, or liable relative may apply for a discount by completing an application form the director of mental health specifies in rules adopted under section 5121.55 of the Revised Code. The department of mental health may require a patient, estate, or relative to furnish any of the following with an application form: 48611
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(1) A copy of the patient's, estate's, or liable relative's federal income tax return for the year preceding the date of application or, if that is not yet available, the preceding year; 48617
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(2) A copy of the patient's, estate's, or liable relative's employee tax withholding return (form W-2) for the year preceding the date of application. 48620
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(B) To be considered, an application must be submitted to the department not later than one hundred twenty days after the date the patient is admitted to a hospital. 48623
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(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. 48626
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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. 48636
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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. 48639
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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. 48646
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If a discounted rate is to be charged, the department shall 48653
notify the person whose financial condition was assessed. The 48654
notice shall specify the per diem rate to be charged. 48655

In accordance with section 5121.42 of the Revised Code, the 48656
department may, at any time, modify an amount charged or change 48657
the per diem rate to be charged if the department learns of 48658
countable assets or income that was not previously disclosed or 48659
was acquired after the assessment was conducted. Within a 48660
reasonable time, the department shall notify in writing any person 48661
affected by a modification or change. 48662

Sec. 5121.38. The department of mental health may subpoena 48663
witnesses, take testimony under oath, and examine any public 48664
records relating to the income and other assets of a patient or of 48665
a relative liable for such patient's support. All information, 48666
conclusions, and recommendations shall be submitted to the 48667
department by the investigating agent of the department. 48668

Sec. 5121.39. The managing officers of the institutions under 48669
the control of the department of mental health shall submit to the 48670
department such information as they may obtain concerning the 48671
financial condition of any patient or relatives liable for the 48672
patient's support. 48673

Sec. 5121.40. (A) A patient, patient's estate, or liable 48674
relative may be eligible to be charged an amount discounted from 48675
the amount the department of mental health charges under section 48676
5121.33 of the Revised Code if the patient, estate, or relative 48677
has countable assets with a total value that is not greater than 48678
an amount equal to fifty per cent of the gross annual income that 48679
corresponds with the family size of the patient, estate, or liable 48680
relative under the federal poverty guidelines. For purposes of 48681
determining family size, the patient is one dependent. One 48682

additional dependent shall be included for each of the following 48683
circumstances and persons: 48684

(1) The patient or liable relative is legally blind or deaf; 48685

(2) The patient or liable relative is of sixty-five years of 48686
age or older; 48687

(3) Each child under eighteen years of age for which the 48688
patient or liable relative is legally responsible for support; 48689

(4) The patient's or liable relative's spouse. 48690

(B) A patient, estate, or relative may, not later than one 48691
hundred twenty days after the patient's admission to a hospital, 48692
surrender the value of countable assets sufficient to reduce 48693
countable assets to not more than the limit described in division 48694
(A) of this section. 48695

Sec. 5121.41. (A) If the assets of a patient, patient's 48696
estate, or liable relative do not exceed the countable asset limit 48697
in section 5121.40 of the Revised Code and the annual income of 48698
the patient, estate, or relative does not exceed four hundred per 48699
cent of the federal poverty level, the patient, estate, or 48700
relative shall be charged an amount discounted from the amount the 48701
department charges under section 5121.33 of the Revised Code for 48702
the first thirty days the patient is admitted as an inpatient in a 48703
hospital. The amount of the discount shall be computed according 48704
to the following schedule: 48705

	<u>Annual Gross Income</u>						
	<u>Expressed as a Percentage of FPL</u>						
<u>Inpatient</u>	<u>1 -</u>	<u>176 -</u>	<u>200 -</u>	<u>250 -</u>	<u>300 -</u>	<u>350 -</u>	
<u>Days at a</u>	<u>175</u>	<u>199</u>	<u>249</u>	<u>299</u>	<u>349</u>	<u>399</u>	
<u>Hospital</u>							
	<u>Percentage discount from charged amount</u>						
<u>1 - 14</u>	<u>100</u>	<u>90</u>	<u>70</u>	<u>50</u>	<u>30</u>	<u>10</u>	

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(B) A patient, estate, or relative who is charged a 48714
discounted amount for the first thirty days the patient is 48715
admitted as an inpatient and who has an annual income not greater 48716
than one hundred seventy-five per cent of the federal poverty 48717
level shall not be charged for the days the patient is admitted 48718
beyond the thirtieth day. 48719

(C) A patient, estate, or relative who is charged a 48720
discounted amount for the first thirty days the patient is 48721
admitted as an inpatient and who has an annual income greater than 48722
one hundred seventy-five per cent of the federal poverty level 48723
shall be charged an amount equal to the sum of the following for 48724
the days the patient is admitted beyond the thirtieth day: 48725

(1) The ancillary per diem rate multiplied by the number of 48726
days the patient was admitted to the hospital; 48727

(2) An amount that was previously charged but not paid. 48728

Sec. 5121.42. (A) Except as provided in division (B) of this 48729
section, a patient, patient's estate, or liable relative shall 48730
cease to be eligible for a discount under sections 5121.36 or 48731
5121.37 of the Revised Code on accumulation of countable assets in 48732
excess of an amount equal to fifty per cent of the gross annual 48733
income that corresponds with the family size of the patient, 48734
estate, or relative plus one additional dependent under the 48735
federal poverty guidelines. In making this determination, an 48736
additional dependent shall be included for each of the following 48737
circumstances and persons: 48738

(1) The patient or liable relative is legally blind or deaf; 48739

(2) The patient or liable relative is over sixty-five years 48740
of age; 48741

(3) Each child under eighteen years of age for which the 48742

patient or liable relative is legally responsible for support; 48743

(4) The patient's or liable relative's spouse. 48744

(B) Money needed to meet the patient's needs and burial fund 48745
as determined by a needs assessment conducted by the department of 48746
mental health pursuant to rules adopted under section 5119.01 of 48747
the Revised Code shall be excluded from any determination the 48748
department makes under division (A) of this section. 48749

Sec. 5121.43. If a patient is covered by an insurance policy 48750
or other contract that provides for payment of expenses for care 48751
and treatment for mental illness at or from an institution, 48752
state-operated community mental health service, or facility, 48753
including a hospital or community service unit under the 48754
jurisdiction of the department of mental health, sections 5121.33 48755
to 5121.55 of the Revised Code are inapplicable to the extent that 48756
the policy or contract is in force. Any insurance carrier or other 48757
third party payor providing coverage for such care and treatment 48758
shall pay for the patient's support obligation in amounts equal to 48759
the lesser of amounts charged by the department under section 48760
5121.33 of the Revised Code or the benefits provided under the 48761
policy or other contract. Whether or not an insured, owner of, or 48762
other person having an interest in such policy or other contract 48763
is liable for support payments, the insured, policy owner, or 48764
other person shall assign payment directly to the department of 48765
all assignable benefits under the policy or other contract and 48766
shall pay to the department, within ten days of receipt, all 48767
insurance or other benefits received as reimbursement or payment 48768
for expenses incurred by the patient or for any other reason. If 48769
the insured, policy owner, or other person refuses to assign 48770
payment to the department or refuses to pay received 48771
reimbursements or payments to the department within ten days of 48772
receipt, the total liability of the insured, policy owner, or 48773

other person for the services equals the sum of the following: 48774

(A) The amount computed under section 5121.33 of the Revised Code; 48775
48776

(B) The amounts payable under the terms of the policy or other contract. 48777
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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. 48779
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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. 48788
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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: 48795
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(1) Make payment in full; 48801

(2) Make a payment in accordance with the terms of an 48802

agreement entered into under section 5121.44 of the Revised Code. 48803

(B) An action to enforce the collection of a delinquent 48804
payment shall be commenced not later than six years after the 48805
later of the following: 48806

(1) The last date the department received money to satisfy 48807
the delinquent payment; 48808

(2) The date the charge was due. 48809

(C) In all actions to enforce the collection of delinquent 48810
payments, a court of record shall receive into evidence the proof 48811
of claim document made by the state together with all debts and 48812
credits. The proof of claim document shall be prima-facie evidence 48813
of the facts stated in the document. 48814

Sec. 5121.46. The department of mental health shall not 48815
charge a liable relative under sections 5121.33 and 5121.35 of the 48816
Revised Code who has done either of the following: 48817

(A) Paid all amounts charged by the department for the care 48818
and treatment of a particular patient for fifteen consecutive 48819
years; 48820

(B) Paid amounts charged by the department for the care and 48821
treatment of more than one patient for a total of fifteen 48822
consecutive years. 48823

Sec. 5121.47. Irrespective of the number of patients for 48824
which the department of mental health may charge a liable relative 48825
under sections 5121.33 or 5121.35 of the Revised Code, the 48826
department shall not charge a liable relative or group of liable 48827
relatives who are members of the same family unit for the support 48828
of more than one patient during the same period of time. 48829

Sec. 5121.49. (A) Any person who has been charged under 48830

section 5121.33 or 5121.35 of the Revised Code may petition the 48831
department of mental health to do the following: 48832

(1) Release the person from a charge; 48833

(2) Modify or cancel a charge. 48834

(B) The department shall respond to a petition in writing and 48835
inform the petitioner of whether a release, modification, or 48836
cancellation has been approved. 48837

Sec. 5121.50. When a patient is committed to a hospital 48838
pursuant to judicial proceedings, the judge ordering the 48839
commitment shall: 48840

(A) Make a reliable report on the financial condition of the 48841
patient and of each liable relative, as provided in rules adopted 48842
by the director of mental health; 48843

(B) Certify the report required under division (A) of this 48844
section to the managing officer of the hospital. The managing 48845
officer shall thereupon enter in the managing officer's records 48846
the name and address of any guardian appointed and of any relative 48847
liable for the patient's support. 48848

Sec. 5121.51. In case the estate of any patient in a hospital 48849
is sufficient for the patient's support, without hardship to any 48850
others who may be dependent thereon, and no guardian has been 48851
appointed for such estate, the agent of the department of mental 48852
health shall petition the probate court of the proper county to 48853
appoint a guardian. 48854

Sec. 5121.52. On the death of a person who is a patient, or 48855
has been a patient in a hospital, or on the death of a person 48856
responsible under section 5121.34 of the Revised Code for the 48857
support of a patient, the department of mental health may waive 48858

the presentation of any claim for support against the estate of 48859
such decedent, when in its judgment an otherwise dependent person 48860
will be directly benefited by the estate. Claims against an estate 48861
for support of a patient are subject to section 1339.51 and 48862
Chapter 2117. of the Revised Code, and shall be treated, and may 48863
be barred, the same as the claims of other creditors of the 48864
estate, pursuant to that section or chapter. 48865

The department of mental health may accept from a guardian or 48866
trustee of a patient a contract agreeing to pay to the state from 48867
the property of the guardian's or trustee's ward before or at the 48868
death of the ward a fixed annual amount for the support of the 48869
ward while the ward is a patient, with interest at four per cent 48870
per annum. A copy of the contract shall be filed in the probate 48871
court of the proper county and duly entered as a part of the 48872
records concerning the ward. 48873

Sec. 5121.53. The state shall bear the expense of the burial 48874
or cremation of an indigent patient who dies in a hospital if the 48875
body is not claimed for interment or cremation at the expense of 48876
friends or relatives, or is not delivered for anatomical purposes 48877
or for the study of embalming in accordance with section 1713.34 48878
of the Revised Code. The managing officer of the hospital shall 48879
provide at the grave of the patient or, if the patient's cremated 48880
remains are buried, at the grave of the patient's cremated 48881
remains, a metal, stone, or concrete marker on which shall be 48882
inscribed the name and age of the patient and the date of death. 48883

Sec. 5121.54. (A) If payment of any amount due the state 48884
under the provisions of this chapter is made on account of a 48885
patient by any liable relative, as defined in section 5121.30 of 48886
the Revised Code, the relative may recover the following amounts 48887
from the following persons; provided, that in no event may a 48888

relative recover in total more than the relative has paid the 48889
state, and provided, that in no event is the person from whom 48890
recovery is sought obliged to pay at a rate of support higher than 48891
the person would have paid had the state proceeded directly 48892
against that person: 48893

(1) A liable relative may recover from the patient, the 48894
patient's guardian, or from the executor or administrator of the 48895
patient's estate, the full amount of payment made by the liable 48896
relative. 48897

(2) A parent may recover from the patient's or resident's 48898
spouse the full amount of payment made by the parent for 48899
hospitalization that occurred during the marriage. 48900

Sec. 5121.55. The director of mental health shall adopt rules 48901
in accordance with Chapter 119. of the Revised Code regarding the 48902
application form a person must use to apply for a discount as 48903
described in section 5121.36 of the Revised Code. 48904

Sec. 5122.03. A patient admitted under section 5122.02 of the 48905
Revised Code who requests ~~his~~ release in writing, or whose release 48906
is requested in writing by ~~his~~ the patient's counsel, legal 48907
guardian, parent, spouse, or adult next of kin shall be released 48908
forthwith, except that when: 48909

(A) The patient was admitted on ~~his~~ the patient's own 48910
application and the request for release is made by a person other 48911
than the patient, release may be conditional upon the agreement of 48912
the patient; or 48913

(B) The chief clinical officer of the hospital, within three 48914
court days from the receipt of the request for release, files or 48915
causes to be filed with the court of the county where the patient 48916
is hospitalized or of the county where the patient is a resident, 48917
an affidavit under section 5122.11 of the Revised Code. Release 48918

may be postponed until the hearing held under section 5122.141 of
the Revised Code. A telephone communication within three court
days from the receipt of the request for release from the chief
clinical officer to the court, indicating that the required
affidavit has been mailed, is sufficient compliance with the time
limit for filing such affidavit.

Unless the patient is released within three days from the
receipt of the request by the chief clinical officer, the request
shall serve as a request for an initial hearing under section
5122.141 of the Revised Code. If the court finds that the patient
is a mentally ill person subject to hospitalization by court
order, all provisions of this chapter with respect to involuntary
hospitalization apply to such person.

Judicial proceedings for hospitalization shall not be
commenced with respect to a voluntary patient except pursuant to
this section.

Sections ~~5121.01 to 5121.10~~ 5121.30 to 5121.55 of the Revised
Code apply to persons received in a hospital operated by the
department of mental health on a voluntary application.

The chief clinical officer of the hospital shall provide
reasonable means and arrangements for informing patients of their
rights to release as provided in this section and for assisting
them in making and presenting requests for release or for a
hearing under section 5122.141 of the Revised Code.

Before a patient is released from a public hospital, the
chief clinical officer shall, when possible, notify the board of
the patient's county of residence of the patient's pending release
after ~~he~~ the chief clinical officer has informed the patient that
the board will be so notified.

Sec. 5122.04. (A) Upon the request of a minor fourteen years

of age or older, a mental health professional may provide 48949
outpatient mental health services, ~~excluding the use of medication~~ 48950
or a person working for or on behalf of a tobacco cessation 48951
program may provide tobacco cessation counseling, without the 48952
consent or knowledge of the minor's parent or guardian. ~~Except~~ The 48953
services or counseling shall not include the use of medication. 48954

Except as otherwise provided in this section, in the case of 48955
mental health services, the minor's parent or guardian shall not 48956
be informed of the services without the minor's consent unless the 48957
mental health professional treating the minor determines that 48958
there is a compelling need for disclosure based on a substantial 48959
probability of harm to the minor or to other persons, and if the 48960
minor is notified of the mental health professional's intent to 48961
inform the minor's parent, or guardian. 48962

(B) Services or counseling provided to a minor pursuant to 48963
this section shall be limited to not more than six sessions or 48964
thirty days of services or counseling whichever occurs sooner. 48965
After the sixth session or thirty days of services or counseling 48966
the mental health professional or person working for or on behalf 48967
of the tobacco cessation program shall terminate the services or 48968
counseling or, with the consent of the minor, notify the parent, 48969
or guardian, to obtain consent to provide further outpatient 48970
services or tobacco cessation counseling. 48971

(C) The minor's parent or guardian shall not be liable for 48972
the costs of services which are received by a minor under division 48973
(A). 48974

(D) Nothing in this section relieves a mental health 48975
professional from the obligations of section 2151.421 of the 48976
Revised Code. 48977

(E) As used in this section, "mental health professional" has 48978
the same meaning as in section 340.02 of the Revised Code. 48979

Sec. 5122.31. (A) All certificates, applications, records, 48980
and reports made for the purpose of this chapter and sections 48981
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 48982
Code, other than court journal entries or court docket entries, 48983
and directly or indirectly identifying a patient or former patient 48984
or person whose hospitalization has been sought under this 48985
chapter, shall be kept confidential and shall not be disclosed by 48986
any person except: 48987

~~(A)~~(1) If the person identified, or the person's legal 48988
guardian, if any, or if the person is a minor, the person's parent 48989
or legal guardian, consents, and if the disclosure is in the best 48990
interests of the person, as may be determined by the court for 48991
judicial records and by the chief clinical officer for medical 48992
records; 48993

~~(B)~~(2) When disclosure is provided for in this chapter or 48994
section 5123.60 of the Revised Code; 48995

~~(C)~~(3) That hospitals, boards of alcohol, drug addiction, and 48996
mental health services, and community mental health agencies may 48997
release necessary medical information to insurers and other 48998
third-party payers, including government entities responsible for 48999
processing and authorizing payment, to obtain payment for goods 49000
and services furnished to the patient; 49001

~~(D)~~(4) Pursuant to a court order signed by a judge; 49002

~~(E)~~(5) That a patient shall be granted access to the 49003
patient's own psychiatric and medical records, unless access 49004
specifically is restricted in a patient's treatment plan for clear 49005
treatment reasons; 49006

~~(F)~~(6) That hospitals and other institutions and facilities 49007
within the department of mental health may exchange psychiatric 49008
records and other pertinent information with other hospitals, 49009

institutions, and facilities of the department, and with community 49010
mental health agencies and boards of alcohol, drug addiction, and 49011
mental health services with which the department has a current 49012
agreement for patient care or services. Records and information 49013
that may be released pursuant to this division shall be limited to 49014
medication history, physical health status and history, financial 49015
status, summary of course of treatment in the hospital, summary of 49016
treatment needs, and a discharge summary, if any. 49017

~~(G)~~(7) That a patient's family member who is involved in the 49018
provision, planning, and monitoring of services to the patient may 49019
receive medication information, a summary of the patient's 49020
diagnosis and prognosis, and a list of the services and personnel 49021
available to assist the patient and the patient's family, if the 49022
patient's treating physician determines that the disclosure would 49023
be in the best interests of the patient. No such disclosure shall 49024
be made unless the patient is notified first and receives the 49025
information and does not object to the disclosure. 49026

~~(H)~~(8) That community mental health agencies may exchange 49027
psychiatric records and certain other information with the board 49028
of alcohol, drug addiction, and mental health services and other 49029
agencies in order to provide services to a person involuntarily 49030
committed to a board. Release of records under this division shall 49031
be limited to medication history, physical health status and 49032
history, financial status, summary of course of treatment, summary 49033
of treatment needs, and discharge summary, if any. 49034

~~(I)~~(9) That information may be disclosed to the executor or 49035
the administrator of an estate of a deceased patient when the 49036
information is necessary to administer the estate; 49037

~~(J)~~(10) That records in the possession of the Ohio historical 49038
society may be released to the closest living relative of a 49039
deceased patient upon request of that relative; 49040

~~(K)~~(11) That information may be disclosed to staff members of 49041
the appropriate board or to staff members designated by the 49042
director of mental health for the purpose of evaluating the 49043
quality, effectiveness, and efficiency of services and determining 49044
if the services meet minimum standards. Information obtained 49045
during such evaluations shall not be retained with the name of any 49046
patient. 49047

~~(L)~~(12) That records pertaining to the patient's diagnosis, 49048
course of treatment, treatment needs, and prognosis shall be 49049
disclosed and released to the appropriate prosecuting attorney if 49050
the patient was committed pursuant to section 2945.38, 2945.39, 49051
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 49052
attorney designated by the board for proceedings pursuant to 49053
involuntary commitment under this chapter. 49054

~~(M)~~(13) That the department of mental health may exchange 49055
psychiatric hospitalization records, other mental health treatment 49056
records, and other pertinent information with the department of 49057
rehabilitation and correction to ensure continuity of care for 49058
inmates who are receiving mental health services in an institution 49059
of the department of rehabilitation and correction. The department 49060
shall not disclose those records unless the inmate is notified, 49061
receives the information, and does not object to the disclosure. 49062
The release of records under this division is limited to records 49063
regarding an inmate's medication history, physical health status 49064
and history, summary of course of treatment, summary of treatment 49065
needs, and a discharge summary, if any. 49066

~~(N)~~(14) That a community mental health agency that ceases to 49067
operate may transfer to either a community mental health agency 49068
that assumes its caseload or to the board of alcohol, drug 49069
addiction, and mental health services of the service district in 49070
which the patient resided at the time services were most recently 49071
provided any treatment records that have not been transferred 49072

elsewhere at the patient's request. 49073

~~(D)~~(B) Before records are disclosed pursuant to divisions 49074
~~(C)~~(A)(3), ~~(F)~~(6), and ~~(H)~~(8) of this section, the custodian of 49075
the records shall attempt to obtain the patient's consent for the 49076
disclosure. No person shall reveal the contents of a medical 49077
record of a patient except as authorized by law. 49078

(C) The managing officer of a hospital who releases necessary 49079
medical information under division (A)(3) of this section to allow 49080
an insurance carrier or other third party payor to comply with 49081
section 5121.43 of the Revised Code shall neither be subject to 49082
criminal nor civil liability. 49083

Sec. 5123.01. As used in this chapter: 49084

(A) "Chief medical officer" means the licensed physician 49085
appointed by the managing officer of an institution for the 49086
mentally retarded with the approval of the director of mental 49087
retardation and developmental disabilities to provide medical 49088
treatment for residents of the institution. 49089

(B) "Chief program director" means a person with special 49090
training and experience in the diagnosis and management of the 49091
mentally retarded, certified according to division (C) of this 49092
section in at least one of the designated fields, and appointed by 49093
the managing officer of an institution for the mentally retarded 49094
with the approval of the director to provide habilitation and care 49095
for residents of the institution. 49096

(C) "Comprehensive evaluation" means a study, including a 49097
sequence of observations and examinations, of a person leading to 49098
conclusions and recommendations formulated jointly, with 49099
dissenting opinions if any, by a group of persons with special 49100
training and experience in the diagnosis and management of persons 49101
with mental retardation or a developmental disability, which group 49102

shall include individuals who are professionally qualified in the 49103
fields of medicine, psychology, and social work, together with 49104
such other specialists as the individual case may require. 49105

(D) "Education" means the process of formal training and 49106
instruction to facilitate the intellectual and emotional 49107
development of residents. 49108

(E) "Habilitation" means the process by which the staff of 49109
the institution assists the resident in acquiring and maintaining 49110
those life skills that enable the resident to cope more 49111
effectively with the demands of the resident's own person and of 49112
the resident's environment and in raising the level of the 49113
resident's physical, mental, social, and vocational efficiency. 49114
Habilitation includes but is not limited to programs of formal, 49115
structured education and training. 49116

~~(F) "Habilitation center services" means services provided by 49117
a habilitation center certified by the department of mental 49118
retardation and developmental disabilities under section 5123.041 49119
of the Revised Code and covered by the medicaid program pursuant 49120
to rules adopted under section 5111.041 of the Revised Code. 49121~~

~~(G)~~ "Health officer" means any public health physician, 49122
public health nurse, or other person authorized or designated by a 49123
city or general health district. 49124

~~(H)~~(G) "Home and community-based services" means 49125
medicaid-funded home and community-based services specified in 49126
division (B)(1) of section 5111.87 of the Revised Code provided 49127
under the medicaid waliver components the department of mental 49128
retardation and developmental disabilities administers pursuant to 49129
section 5111.871 of the Revised Code. 49130

~~(I)~~(H) "Indigent person" means a person who is unable, 49131
without substantial financial hardship, to provide for the payment 49132
of an attorney and for other necessary expenses of legal 49133

representation, including expert testimony. 49134

~~(J)~~(I) "Institution" means a public or private facility, or a 49135
part of a public or private facility, that is licensed by the 49136
appropriate state department and is equipped to provide 49137
residential habilitation, care, and treatment for the mentally 49138
retarded. 49139

~~(K)~~(J) "Licensed physician" means a person who holds a valid 49140
certificate issued under Chapter 4731. of the Revised Code 49141
authorizing the person to practice medicine and surgery or 49142
osteopathic medicine and surgery, or a medical officer of the 49143
government of the United States while in the performance of the 49144
officer's official duties. 49145

~~(L)~~(K) "Managing officer" means a person who is appointed by 49146
the director of mental retardation and developmental disabilities 49147
to be in executive control of an institution for the mentally 49148
retarded under the jurisdiction of the department. 49149

~~(M)~~(L) "Medicaid" has the same meaning as in section 5111.01 49150
of the Revised Code. 49151

~~(N)~~(M) "Medicaid case management services" means case 49152
management services provided to an individual with mental 49153
retardation or other developmental disability that the state 49154
medicaid plan requires. 49155

~~(O)~~(N) "Mentally retarded person" means a person having 49156
significantly subaverage general intellectual functioning existing 49157
concurrently with deficiencies in adaptive behavior, manifested 49158
during the developmental period. 49159

~~(P)~~(O) "Mentally retarded person subject to 49160
institutionalization by court order" means a person eighteen years 49161
of age or older who is at least moderately mentally retarded and 49162
in relation to whom, because of the person's retardation, either 49163
of the following conditions exist: 49164

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant habilitation in an institution.

~~(Q)~~(P) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

~~(R)~~(Q) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code.

(2) It is manifested before age twenty-two.

(3) It is likely to continue indefinitely.

(4) It results in one of the following:

(a) In the case of a person under three years of age, at least one developmental delay or an established risk;

(b) In the case of a person at least three years of age but 49195
under six years of age, at least two developmental delays or an 49196
established risk; 49197

(c) In the case of a person six years of age or older, a 49198
substantial functional limitation in at least three of the 49199
following areas of major life activity, as appropriate for the 49200
person's age: self-care, receptive and expressive language, 49201
learning, mobility, self-direction, capacity for independent 49202
living, and, if the person is at least sixteen years of age, 49203
capacity for economic self-sufficiency. 49204

(5) It causes the person to need a combination and sequence 49205
of special, interdisciplinary, or other type of care, treatment, 49206
or provision of services for an extended period of time that is 49207
individually planned and coordinated for the person. 49208

~~(S)~~(R) "Developmentally disabled person" means a person with 49209
a developmental disability. 49210

~~(T)~~(S) "State institution" means an institution that is 49211
tax-supported and under the jurisdiction of the department. 49212

~~(U)~~(T) "Residence" and "legal residence" have the same 49213
meaning as "legal settlement," which is acquired by residing in 49214
Ohio for a period of one year without receiving general assistance 49215
prior to July 17, 1995, under former Chapter 5113. of the Revised 49216
Code, financial assistance under Chapter 5115. of the Revised 49217
Code, or assistance from a private agency that maintains records 49218
of assistance given. A person having a legal settlement in the 49219
state shall be considered as having legal settlement in the 49220
assistance area in which the person resides. No adult person 49221
coming into this state and having a spouse or minor children 49222
residing in another state shall obtain a legal settlement in this 49223
state as long as the spouse or minor children are receiving public 49224
assistance, care, or support at the expense of the other state or 49225

its subdivisions. For the purpose of determining the legal 49226
settlement of a person who is living in a public or private 49227
institution or in a home subject to licensing by the department of 49228
job and family services, the department of mental health, or the 49229
department of mental retardation and developmental disabilities, 49230
the residence of the person shall be considered as though the 49231
person were residing in the county in which the person was living 49232
prior to the person's entrance into the institution or home. 49233
Settlement once acquired shall continue until a person has been 49234
continuously absent from Ohio for a period of one year or has 49235
acquired a legal residence in another state. A woman who marries a 49236
man with legal settlement in any county immediately acquires the 49237
settlement of her husband. The legal settlement of a minor is that 49238
of the parents, surviving parent, sole parent, parent who is 49239
designated the residential parent and legal custodian by a court, 49240
other adult having permanent custody awarded by a court, or 49241
guardian of the person of the minor, provided that: 49242

(1) A minor female who marries shall be considered to have 49243
the legal settlement of her husband and, in the case of death of 49244
her husband or divorce, she shall not thereby lose her legal 49245
settlement obtained by the marriage. 49246

(2) A minor male who marries, establishes a home, and who has 49247
resided in this state for one year without receiving general 49248
assistance prior to July 17, 1995, under former Chapter 5113. of 49249
the Revised Code, financial assistance under Chapter 5115. of the 49250
Revised Code, or assistance from a private agency that maintains 49251
records of assistance given shall be considered to have obtained a 49252
legal settlement in this state. 49253

(3) The legal settlement of a child under eighteen years of 49254
age who is in the care or custody of a public or private child 49255
caring agency shall not change if the legal settlement of the 49256
parent changes until after the child has been in the home of the 49257

parent for a period of one year.

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No person, adult or minor, may establish a legal settlement
in this state for the purpose of gaining admission to any state
institution.

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~~(V)~~(U)(1) "Resident" means, subject to division (R)(2) of
this section, a person who is admitted either voluntarily or
involuntarily to an institution or other facility pursuant to
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised
Code subsequent to a finding of not guilty by reason of insanity
or incompetence to stand trial or under this chapter who is under
observation or receiving habilitation and care in an institution.

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(2) "Resident" does not include a person admitted to an
institution or other facility under section 2945.39, 2945.40,
2945.401, or 2945.402 of the Revised Code to the extent that the
reference in this chapter to resident, or the context in which the
reference occurs, is in conflict with any provision of sections
2945.37 to 2945.402 of the Revised Code.

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~~(W)~~(V) "Respondent" means the person whose detention,
commitment, or continued commitment is being sought in any
proceeding under this chapter.

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~~(X)~~(W) "Working day" and "court day" mean Monday, Tuesday,
Wednesday, Thursday, and Friday, except when such day is a legal
holiday.

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~~(Y)~~(X) "Prosecutor" means the prosecuting attorney, village
solicitor, city director of law, or similar chief legal officer
who prosecuted a criminal case in which a person was found not
guilty by reason of insanity, who would have had the authority to
prosecute a criminal case against a person if the person had not
been found incompetent to stand trial, or who prosecuted a case in
which a person was found guilty.

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~~(Z)~~(Y) "Court" means the probate division of the court of 49288
common pleas. 49289

Sec. 5123.046. The department of mental retardation and 49290
developmental disabilities shall review each component of the 49291
three-calendar year plan it receives from a county board of mental 49292
retardation and developmental disabilities under section 5126.054 49293
of the Revised Code and, in consultation with the department of 49294
job and family services and office of budget and management, 49295
approve each component that includes all the information and 49296
conditions specified in that section. The fourth component of the 49297
plan shall be approved or disapproved not later than forty-five 49298
days after the fourth component is submitted to the department 49299
under division (B)(3) of section 5126.054 of the Revised Code. If 49300
the department approves all four components of the plan, the plan 49301
is approved. Otherwise, the plan is disapproved. If the plan is 49302
disapproved, the department shall take action against the county 49303
board under division (B) of section 5126.056 of the Revised Code. 49304

In approving plans under this section, the department shall 49305
ensure that the aggregate of all plans provide for the increased 49306
enrollment into home and community-based services during each 49307
state fiscal year of at least five hundred individuals who did not 49308
receive residential services, supported living, or home and 49309
community-based services the prior state fiscal year if the 49310
department has enough additional enrollment available for this 49311
purpose. 49312

The department shall establish protocols that the department 49313
shall use to determine whether a county board is complying with 49314
the programmatic and financial accountability mechanisms and 49315
achieving outcomes specified in its approved plan. If the 49316
department determines that a county board is not in compliance 49317
with the mechanisms or achieving the outcomes specified in its 49318

approved plan, the department may take action under division 49319
(G)(F) of section 5126.055 of the Revised Code. 49320

Sec. 5123.047. (A) ~~The department of mental retardation and 49321
developmental disabilities shall pay the nonfederal share of 49322
medicaid expenditures for habilitation center services provided to 49323
an individual with mental retardation or other developmental 49324
disability unless section 5111.041 of the Revised Code requires a 49325
county board of mental retardation and developmental disabilities 49326
or a school district to pay the nonfederal share. 49327~~

~~(B) The department of mental retardation and developmental 49328
disabilities shall pay the nonfederal share of medicaid 49329
expenditures for medicaid case management services if ~~either of 49330
the following apply:~~ 49331~~

~~(1) The the services are provided to an individual with 49332
mental retardation or other developmental disability who a county 49333
board of mental retardation and developmental disabilities has 49334
determined under section 5126.041 of the Revised Code is not 49335
eligible for county board services; 49336~~

~~(2) The services are provided to an individual with mental 49337
retardation or other developmental disability by a public or 49338
private agency with which the department has contracted under 49339
section 5123.56 of the Revised Code to provide protective services 49340
to the individual. 49341~~

~~(C)(B) The department shall pay the nonfederal share of 49342
medicaid expenditures for home and community-based services if 49343
either of the following apply: 49344~~

~~(1) The services are provided to an individual with mental 49345
retardation or other developmental disability who a county board 49346
has determined under section 5126.041 of the Revised Code is not 49347
eligible for county board services; 49348~~

(2) The services are provided to an individual with mental 49349
retardation or other developmental disability given priority for 49350
the services pursuant to division (D)(3) of section 5126.042 of 49351
the Revised Code. The department shall pay the nonfederal share of 49352
medicaid expenditures for home and community-based services 49353
provided to such an individual for as long as the individual 49354
continues to be eligible for and receive the services, regardless 49355
of whether the services are provided after June 30, 2003. 49356

Sec. 5123.049. The director of mental retardation and 49357
developmental disabilities shall adopt rules in accordance with 49358
Chapter 119. of the Revised Code governing the authorization and 49359
payment of home and community-based services, and medicaid case 49360
management services, ~~and habilitation center services~~. The rules 49361
shall provide for private providers of the services to receive one 49362
hundred per cent of the medicaid allowable payment amount and for 49363
government providers of the services to receive the federal share 49364
of the medicaid allowable payment, less the amount withheld as a 49365
fee under section 5123.0412 of the Revised Code and any amount 49366
that may be required by rules adopted under section 5123.0413 of 49367
the Revised Code to be deposited into the state MR/DD risk fund. 49368
The rules shall establish the process by which county boards of 49369
mental retardation and developmental disabilities shall certify 49370
and provide the nonfederal share of medicaid expenditures that the 49371
county board is required by division (A) of section 5126.057 of 49372
the Revised Code to pay. The process shall require a county board 49373
to certify that the county board has funding available at one time 49374
for two months costs for those expenditures. The process may 49375
permit a county board to certify that the county board has funding 49376
available at one time for more than two months costs for those 49377
expenditures. 49378

Sec. 5123.0412. (A) The department of mental retardation and 49379

developmental disabilities shall charge each county board of 49380
mental retardation and developmental disabilities an annual fee 49381
equal to one and one-half per cent of the total value of all 49382
medicaid paid claims for medicaid case management services and 49383
home and community-based services ~~for which the county board~~ 49384
~~contracts or provides itself~~ provided during the year to an 49385
individual eligible for services from the county board. No county 49386
board shall pass the cost of a fee charged to the county board 49387
under this section on to ~~a person or government entity with which~~ 49388
~~the county board contracts to provide the~~ another provider of 49389
these services. 49390

(B) The fees collected under this section shall be deposited 49391
into the ODMR/DD administration and oversight fund and the ODJFS 49392
administration and oversight fund, both of which are hereby 49393
created in the state treasury. The portion of the fees to be 49394
deposited into the ODMR/DD administration and oversight fund and 49395
the portion of the fees to be deposited into the ODJFS 49396
administration and oversight fund shall be the portion specified 49397
in an interagency agreement entered into under division (C) of 49398
this section. The department of mental retardation and 49399
developmental disabilities shall use the money in the ODMR/DD 49400
administration and oversight fund and the department of job and 49401
family services shall use the money in the ODJFS administration 49402
and oversight fund for both of the following purposes: 49403

(1) The administrative and oversight costs of ~~habilitation~~ 49404
~~center services~~, medicaid case management services, and home and 49405
community-based services ~~that a county board develops and monitors~~ 49406
~~and the county board or a person or government entity under~~ 49407
~~contract with the county board provides~~. The administrative and 49408
oversight costs shall include costs for staff, systems, and other 49409
resources the departments need and dedicate solely to the 49410
following duties associated with the services: 49411

(a) Eligibility determinations;	49412
(b) Training;	49413
(c) Fiscal management;	49414
(d) Claims processing;	49415
(e) Quality assurance oversight;	49416
(f) Other duties the departments identify.	49417
(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.	49418 49419 49420
(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:	49421 49422 49423
(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;	49424 49425 49426 49427
(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.	49428 49429 49430
(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.	49431 49432 49433 49434 49435
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:	49436 49437 49438
(1)(a) <u>"Independent living arrangement" means an arrangement</u>	49439

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 individuals with mental retardation or a developmental disability, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services. 49440
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(2) "Intermediate care facility for the mentally retarded" means a residential facility certified as an intermediate care facility for the mentally retarded by the director of health in accordance with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396. 49448
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(3) "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. 49453
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(4) "Political subdivision" means a municipal corporation, county, or township. 49456
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(5) "Residential facility" means a home or facility in which a mentally retarded an individual with mental retardation or developmentally disabled person a developmental disability resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person such an individual resides, a respite care home certified under section 5126.05 of the Revised Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded residents with mental retardation or developmentally disabled residents a developmental disability are in an independent living arrangement or are being provided supported living. 49458
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(b) "Intermediate care facility for the mentally retarded" 49470

~~means a residential facility that is considered an intermediate
care facility for the mentally retarded for the purposes of
Chapter 5111. of the Revised Code.~~

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~~(2) "Political subdivision" means a municipal corporation,
county, or township.~~

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~~(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.~~

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~~(4)(6) "Residential facility I" means a residential facility
that is not an intermediate care facility for the mentally
retarded.~~

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~~(7) "Residential facility II" means a residential facility
that is an intermediate care facility for the mentally retarded.~~

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~~(8) "Supported living" has the same meaning as in section
5126.01 of the Revised Code.~~

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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.~~

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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

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facility I or residential facility II. Notwithstanding Chapter 49501
3721. of the Revised Code, the operator of a nursing home ~~that is~~ 49502
~~certified as an intermediate care facility for the mentally~~ 49503
~~retarded under Title XIX of the "Social Security Act," 79 Stat.~~ 49504
~~286 (1965), 42 U.S.C.A. 1396, as amended,~~ shall apply for 49505
licensure ~~of the~~ as a residential facility II for any portion of 49506
the home that is ~~certified as~~ an intermediate care facility for 49507
the mentally retarded. 49508

(C) Subject to section 5123.196 of the Revised Code, the 49509
director of mental retardation and developmental disabilities 49510
shall license the operation of residential facilities. An initial 49511
license shall be issued for a period that does not exceed one 49512
year, unless the director denies the license under division (D) of 49513
this section. A license shall be renewed for a period that does 49514
not exceed three years, unless the director refuses to renew the 49515
license under division (D) of this section. The director, when 49516
issuing or renewing a license, shall specify the period for which 49517
the license is being issued or renewed. A license remains valid 49518
for the length of the licensing period specified by the director, 49519
unless the license is terminated, revoked, or voluntarily 49520
surrendered. 49521

(D) If it is determined that an applicant or licensee is not 49522
in compliance with a provision of this chapter that applies to the 49523
type of residential facilities facility that the applicant seeks 49524
to operate or the licensee operates, or the rules adopted under 49525
such a provision, the director may deny issuance of a license, 49526
refuse to renew a license, terminate a license, revoke a license, 49527
issue an order for the suspension of admissions to a facility, 49528
issue an order for the placement of a monitor at a facility, issue 49529
an order for the immediate removal of residents, or take any other 49530
action the director considers necessary consistent with the 49531
director's authority under this chapter regarding residential 49532

facilities. In the director's selection and administration of the 49533
sanction to be imposed, all of the following apply: 49534

(1) The director may deny, refuse to renew, or revoke a 49535
license, if the director determines that the applicant or licensee 49536
has demonstrated a pattern of serious noncompliance or that a 49537
violation creates a substantial risk to the health and safety of 49538
residents of a residential facility. 49539

(2) The director may terminate a license if more than twelve 49540
consecutive months have elapsed since the residential facility was 49541
last occupied by a resident or a notice required by division (J) 49542
of this section is not given. 49543

(3) The director may issue an order for the suspension of 49544
admissions to a facility for any violation that may result in 49545
sanctions under division (D)(1) of this section and for any other 49546
violation specified in rules adopted under division (G)(2) of this 49547
section. If the suspension of admissions is imposed for a 49548
violation that may result in sanctions under division (D)(1) of 49549
this section, the director may impose the suspension before 49550
providing an opportunity for an adjudication under Chapter 119. of 49551
the Revised Code. The director shall lift an order for the 49552
suspension of admissions when the director determines that the 49553
violation that formed the basis for the order has been corrected. 49554

(4) The director may order the placement of a monitor at a 49555
residential facility for any violation specified in rules adopted 49556
under division (G)(2) of this section. The director shall lift the 49557
order when the director determines that the violation that formed 49558
the basis for the order has been corrected. 49559

(5) If the director determines that two or more residential 49560
facilities owned or operated by the same person or government 49561
entity are not being operated in compliance with a provision of 49562
this chapter that applies to the type of residential facility that 49563

the facilities are, or the rules adopted under such a provision, 49564
and the director's findings are based on the same or a 49565
substantially similar action, practice, circumstance, or incident 49566
that creates a substantial risk to the health and safety of the 49567
residents, the director shall conduct a survey as soon as 49568
practicable at each residential facility owned or operated by that 49569
person or government entity. The director may take any action 49570
authorized by this section with respect to any facility found to 49571
be operating in violation of a provision of this chapter that 49572
applies to the type of residential facility that the facilities 49573
are, or the rules adopted under such a provision. 49574

(6) When the director initiates license revocation 49575
proceedings, no opportunity for submitting a plan of correction 49576
shall be given. The director shall notify the licensee by letter 49577
of the initiation of such proceedings. The letter shall list the 49578
deficiencies of the residential facility and inform the licensee 49579
that no plan of correction will be accepted. The director shall 49580
also notify each affected resident, the resident's guardian if the 49581
resident is an adult for whom a guardian has been appointed, the 49582
resident's parent or guardian if the resident is a minor, and the 49583
county board of mental retardation and developmental disabilities. 49584

(7) Pursuant to rules which shall be adopted in accordance 49585
with Chapter 119. of the Revised Code, the director may order the 49586
immediate removal of residents from a residential facility 49587
whenever conditions at the facility present an immediate danger of 49588
physical or psychological harm to the residents. 49589

(8) In determining whether a residential facility is being 49590
operated in compliance with a provision of this chapter that 49591
applies to the type of residential facilities facility that the 49592
facility is, or the rules adopted under such a provision, or 49593
whether conditions at a residential facility present an immediate 49594
danger of physical or psychological harm to the residents, the 49595

director may rely on information obtained by a county board of 49596
mental retardation and developmental disabilities or other 49597
governmental agencies. 49598

(9) In proceedings initiated to deny, refuse to renew, or 49599
revoke licenses, the director may deny, refuse to renew, or revoke 49600
a license regardless of whether some or all of the deficiencies 49601
that prompted the proceedings have been corrected at the time of 49602
the hearing. 49603

(E) The director shall establish a program under which public 49604
notification may be made when the director has initiated license 49605
revocation proceedings or has issued an order for the suspension 49606
of admissions, placement of a monitor, or removal of residents. 49607
The director shall adopt rules in accordance with Chapter 119. of 49608
the Revised Code to implement this division. The rules shall 49609
establish the procedures by which the public notification will be 49610
made and specify the circumstances for which the notification must 49611
be made. The rules shall require that public notification be made 49612
if the director has taken action against the facility in the 49613
eighteen-month period immediately preceding the director's latest 49614
action against the facility and the latest action is being taken 49615
for the same or a substantially similar violation of a provision 49616
of this chapter that applies to the type of residential facilities 49617
facility that the facility is, or the rules adopted under such a 49618
provision. The rules shall specify a method for removing or 49619
amending the public notification if the director's action is found 49620
to have been unjustified or the violation at the residential 49621
facility has been corrected. 49622

(F)(1) Except as provided in division (F)(2) of this section, 49623
appeals from proceedings initiated to impose a sanction under 49624
division (D) of this section shall be conducted in accordance with 49625
Chapter 119. of the Revised Code. 49626

(2) Appeals from proceedings initiated to order the 49627

suspension of admissions to a facility shall be conducted in 49628
accordance with Chapter 119. of the Revised Code, unless the order 49629
was issued before providing an opportunity for an adjudication, in 49630
which case all of the following apply: 49631

(a) The licensee may request a hearing not later than ten 49632
days after receiving the notice specified in section 119.07 of the 49633
Revised Code. 49634

(b) If a timely request for a hearing is made, the hearing 49635
shall commence not later than thirty days after the department 49636
receives the request. 49637

(c) After commencing, the hearing shall continue 49638
uninterrupted, except for Saturdays, Sundays, and legal holidays, 49639
unless other interruptions are agreed to by the licensee and the 49640
director. 49641

(d) If the hearing is conducted by a hearing examiner, the 49642
hearing examiner shall file a report and recommendations not later 49643
than ten days after the close of the hearing. 49644

(e) Not later than five days after the hearing examiner files 49645
the report and recommendations, the licensee may file objections 49646
to the report and recommendations. 49647

(f) Not later than fifteen days after the hearing examiner 49648
files the report and recommendations, the director shall issue an 49649
order approving, modifying, or disapproving the report and 49650
recommendations. 49651

(g) Notwithstanding the pendency of the hearing, the director 49652
shall lift the order for the suspension of admissions when the 49653
director determines that the violation that formed the basis for 49654
the order has been corrected. 49655

(G) In accordance with Chapter 119. of the Revised Code, the 49656
director shall adopt and may amend and rescind rules for licensing 49657

and regulating the operation of residential facilities, ~~including~~ 49658
~~intermediate care facilities for the mentally retarded. The rules~~ 49659
~~for intermediate care facilities for the mentally retarded may~~ 49660
~~differ from those for other residential facilities.~~ The rules 49661
shall establish and specify the following: 49662

(1) Procedures and criteria for issuing and renewing 49663
licenses, including procedures and criteria for determining the 49664
length of the licensing period that the director must specify for 49665
each license when it is issued or renewed; 49666

(2) Procedures and criteria for denying, refusing to renew, 49667
terminating, and revoking licenses and for ordering the suspension 49668
of admissions to a facility, placement of a monitor at a facility, 49669
and the immediate removal of residents from a facility; 49670

(3) Fees for issuing and renewing licenses; 49671

(4) Procedures for surveying residential facilities; 49672

(5) Requirements for the training of residential facility 49673
personnel; 49674

(6) Classifications for the various types of residential 49675
facilities beyond the residential facility I and II 49676
classifications; 49677

(7) Certification procedures for licensees and management 49678
contractors that the director determines are necessary to ensure 49679
that they have the skills and qualifications to properly operate 49680
or manage residential facilities; 49681

(8) The maximum number of persons who may be served in a 49682
particular type of residential facility; 49683

(9) Uniform procedures for admission of persons to and 49684
transfers and discharges of persons from residential facilities; 49685

(10) Other standards for the operation of residential 49686
facilities and the services provided at residential facilities, 49687

including standards applicable to residential facilities II but 49688
not to residential facilities I; 49689

(11) Procedures for waiving any provision of any rule adopted 49690
under this section. 49691

(H) Before issuing a license, the director of the department 49692
or the director's designee shall conduct a survey of the 49693
residential facility for which application is made. The director 49694
or the director's designee shall conduct a survey of each licensed 49695
residential facility at least once during the period the license 49696
is valid and may conduct additional inspections as needed. A 49697
survey includes but is not limited to an on-site examination and 49698
evaluation of the residential facility, its personnel, and the 49699
services provided there. 49700

In conducting surveys, the director or the director's 49701
designee shall be given access to the residential facility; all 49702
records, accounts, and any other documents related to the 49703
operation of the facility; the licensee; the residents of the 49704
facility; and all persons acting on behalf of, under the control 49705
of, or in connection with the licensee. The licensee and all 49706
persons on behalf of, under the control of, or in connection with 49707
the licensee shall cooperate with the director or the director's 49708
designee in conducting the survey. 49709

Following each survey, unless the director initiates a 49710
license revocation proceeding, the director or the director's 49711
designee shall provide the licensee with a report listing any 49712
deficiencies, specifying a timetable within which the licensee 49713
shall submit a plan of correction describing how the deficiencies 49714
will be corrected, and, when appropriate, specifying a timetable 49715
within which the licensee must correct the deficiencies. After a 49716
plan of correction is submitted, the director or the director's 49717
designee shall approve or disapprove the plan. A copy of the 49718
report and any approved plan of correction shall be provided to 49719

any person who requests it.

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The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

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(I) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license.

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(J) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

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Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of such notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter

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119. of the Revised Code. 49751

(K) A county board of mental retardation and developmental 49752
disabilities, the legal rights service, and any interested person 49753
may file complaints alleging violations of statute or department 49754
rule relating to residential facilities with the department. All 49755
complaints shall be in writing and shall state the facts 49756
constituting the basis of the allegation. The department shall not 49757
reveal the source of any complaint unless the complainant agrees 49758
in writing to waive the right to confidentiality or until so 49759
ordered by a court of competent jurisdiction. 49760

The department shall adopt rules in accordance with Chapter 49761
119. of the Revised Code establishing procedures for the receipt, 49762
referral, investigation, and disposition of complaints filed with 49763
the department under this division. 49764

(L) The department shall establish procedures for the 49765
notification of interested parties of the transfer or interim care 49766
of residents from residential facilities that are closing or are 49767
losing their license. 49768

(M) Before issuing a license under this section to a 49769
residential facility that will accommodate at any time more than 49770
one ~~mentally retarded individual with mental retardation or~~ 49771
~~developmentally disabled individual a developmental disability,~~ 49772
the director shall, by first class mail, notify the following: 49773

(1) If the facility will be located in a municipal 49774
corporation, the clerk of the legislative authority of the 49775
municipal corporation; 49776

(2) If the facility will be located in unincorporated 49777
territory, the clerk of the appropriate board of county 49778
commissioners and the clerk of the appropriate board of township 49779
trustees. 49780

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(N) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight ~~persons~~ 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 49813
any multiple-family residential district or zone of any political 49814
subdivision, except that a political subdivision that has enacted 49815
a zoning ordinance or resolution establishing planned unit 49816
development districts may exclude these residential facilities 49817
from such districts, and a political subdivision that has enacted 49818
a zoning ordinance or resolution may regulate these residential 49819
facilities in multiple-family residential districts or zones as a 49820
conditionally permitted use or special exception, in either case, 49821
under reasonable and specific standards and conditions set out in 49822
the zoning ordinance or resolution to: 49823

(1) Require the architectural design and site layout of the 49824
residential facility and the location, nature, and height of any 49825
walls, screens, and fences to be compatible with adjoining land 49826
uses and the residential character of the neighborhood; 49827

(2) Require compliance with yard, parking, and sign 49828
regulation; 49829

(3) Limit excessive concentration of these residential 49830
facilities. 49831

(P) This section does not prohibit a political subdivision 49832
from applying to residential facilities nondiscriminatory 49833
regulations requiring compliance with health, fire, and safety 49834
regulations and building standards and regulations. 49835

(Q) Divisions (N) and (O) of this section are not applicable 49836
to municipal corporations that had in effect on June 15, 1977, an 49837
ordinance specifically permitting in residential zones licensed 49838
residential facilities by means of permitted uses, conditional 49839
uses, or special exception, so long as such ordinance remains in 49840
effect without any substantive modification. 49841

(R)(1) The director may issue an interim license to operate a 49842
residential facility to an applicant for a license under this 49843

section if either of the following is the case: 49844

(a) The director determines that an emergency exists 49845
requiring immediate placement of persons in a residential 49846
facility, that insufficient licensed beds are available, and that 49847
the residential facility is likely to receive a permanent license 49848
under this section within thirty days after issuance of the 49849
interim license. 49850

(b) The director determines that the issuance of an interim 49851
license is necessary to meet a temporary need for a residential 49852
facility. 49853

(2) To be eligible to receive an interim license, an 49854
applicant must meet the same criteria that must be met to receive 49855
a permanent license under this section, except for any differing 49856
procedures and time frames that may apply to issuance of a 49857
permanent license. 49858

(3) An interim license shall be valid for thirty days and may 49859
be renewed by the director for a period not to exceed one hundred 49860
fifty days. 49861

(4) The director shall adopt rules in accordance with Chapter 49862
119. of the Revised Code as the director considers necessary to 49863
administer the issuance of interim licenses. 49864

(S) Notwithstanding rules adopted pursuant to this section 49865
establishing the maximum number of ~~persons~~ individuals who may be 49866
served in a particular type of residential facility, a residential 49867
facility shall be permitted to serve the same number of ~~persons~~ 49868
individuals being served by the facility on the effective date of 49869
such rules or the number of ~~persons~~ individuals for which the 49870
facility is authorized pursuant to a current application for a 49871
certificate of need with a letter of support from the department 49872
of mental retardation and developmental disabilities and which is 49873
in the review process prior to April 4, 1986. 49874

(T) The director or the director's designee may enter at any 49875
time, for purposes of investigation, any home, facility, or other 49876
structure that has been reported to the director or that the 49877
director has reasonable cause to believe is being operated as a 49878
residential facility without a license issued under this section. 49879

The director may petition the court of common pleas of the 49880
county in which an unlicensed residential facility is located for 49881
an order enjoining the person or governmental agency operating the 49882
facility from continuing to operate without a license. The court 49883
may grant the injunction on a showing that the person or 49884
governmental agency named in the petition is operating a 49885
residential facility without a license. The court may grant the 49886
injunction, regardless of whether the residential facility meets 49887
the requirements for receiving a license under this section. 49888

Sec. 5123.196. (A) Except as provided in ~~divisions (F)~~ 49889
division (E) of this section, the director of mental retardation 49890
and developmental disabilities shall not issue a license under 49891
section 5123.19 of the Revised Code on or after July 1, ~~2003~~ 2005, 49892
if issuance will result in there being more beds in all 49893
residential facilities II licensed under that section than is 49894
permitted under division (B) of this section. 49895

(B) The maximum number of beds for the purpose of division 49896
(A) of this section shall not exceed ~~ten thousand eight hundred~~ 49897
~~thirty-eight~~ seven thousand six hundred fifty-six minus, except as 49898
provided in division (C) of this section, both of the following: 49899

(1) The number of such beds that cease to be residential 49900
facility II beds on or after July 1, ~~2003~~ 2005, because a 49901
residential facility II license is revoked, terminated, or not 49902
renewed for any reason or is surrendered in accordance with 49903
section 5123.19 of the Revised Code and after the issuance of an 49904
adjudication order pursuant to Chapter 119. of the Revised Code; 49905

(2) The number of such beds for which a licensee voluntarily converts to use for supported living on or after July 1, ~~2003~~ 2005. 49906
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(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. 49909
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(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. 49916
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~~(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. 49919
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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. 49927
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~~Sec. 5123.20. As used in this section, "supported living" has~~ 49935

~~the same meaning as in section 5126.01 of the Revised Code.~~ 49936

No person or government agency shall operate a residential 49937
facility or receive ~~a mentally retarded~~ an individual with mental 49938
retardation or ~~developmentally disabled person~~ a developmental 49939
disability as a resident of a residential facility unless the 49940
facility is licensed under section 5123.19 of the Revised Code, 49941
~~and no~~ as the type of residential facility that the facility is. 49942
No person or governmental agency shall operate a respite care home 49943
or receive a mentally retarded or developmentally disabled person 49944
in a respite care home unless the home is certified under section 49945
5126.05 of the Revised Code. 49946

No person or government agency shall provide supported living 49947
unless that person or government agency is certified under section 49948
5126.431 of the Revised Code. 49949

Sec. 5123.34. This chapter attempts to do all of the 49950
following: 49951

(A) Provide humane and scientific treatment and care and the 49952
highest attainable degree of individual development for persons 49953
with mental retardation or a developmental disability; 49954

(B) Promote the study of the causes of mental retardation and 49955
developmental disabilities, with a view to ultimate prevention; 49956

(C) Secure by uniform and systematic management the highest 49957
attainable degree of economy in the administration of the 49958
institutions under the control of the department of mental 49959
retardation and developmental disabilities. 49960

Sections 5123.02 to 5123.04, ~~5123.041 to 5123.042~~, 5123.043, 49961
5123.10, 5123.21, 5123.221, 5123.25, and 5123.31 of the Revised 49962
Code shall be liberally construed to attain these purposes. 49963

Sec. 5123.701. (A) Except as provided in division (E) of this 49964

section, any person in the community who is eighteen years of age 49965
or older and who is or believes self to be mentally retarded may 49966
make written application to the managing officer of any 49967
institution for temporary admission for short-term care. The 49968
application may be made on behalf of a minor by a parent or 49969
guardian, and on behalf of an adult adjudicated mentally 49970
incompetent by a guardian. 49971

(B) For purposes of this section, short-term care shall be 49972
defined to mean appropriate services provided to a person with 49973
mental retardation for no more than fourteen consecutive days and 49974
for no more than forty-two days in a fiscal year. When 49975
circumstances warrant, the fourteen-day period may be extended at 49976
the discretion of the managing officer. Short-term care is 49977
provided in a developmental center to meet the family's or 49978
caretaker's needs for separation from the person with mental 49979
retardation. 49980

(C) The managing officer of an institution, with the 49981
concurrence of the chief program director, may admit a person for 49982
short-term care only after a medical examination has been made of 49983
the person and only if the managing officer concludes that the 49984
person is mentally retarded. 49985

(D) If application for admission for short-term care of a 49986
minor or of a person adjudicated mentally incompetent is made by 49987
the minor's parent or guardian or by the incompetent's guardian 49988
and the minor or incompetent is admitted, the probate division of 49989
the court of common pleas shall determine, upon petition by the 49990
legal rights service, whether the admission for short-term care is 49991
in the best interest of the minor or the incompetent. 49992

(E) A person who is found not guilty by reason of insanity 49993
shall not admit self to an institution for short-term care unless 49994
a hearing was held regarding the person pursuant to division (A) 49995
of section 2945.40 of the Revised Code and either of the following 49996

applies:	49997
(1) The person was found at the hearing not to be a mentally retarded person subject to institutionalization by court order;	49998 49999
(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.	50000 50001 50002
(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 <u>5121.01</u> to 5121.07 of the Revised Code.	50003 50004 50005 50006
(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.	50007 50008 50009 50010 50011 50012 50013 50014
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	50015 50016 50017 50018 50019 50020 50021 50022 50023 50024 50025 50026

disabilities. This section does not apply regarding the 50027
institutionalization of a person pursuant to section 2945.39, 50028
2945.40, 2945.401, or 2945.402 of the Revised Code. 50029

The affidavit shall contain an allegation setting forth the 50030
specific category or categories under division ~~(P)~~(Q) of section 50031
5123.01 of the Revised Code upon which the commencement of 50032
proceedings is based and a statement of the factual ground for the 50033
belief that the person is a mentally retarded person subject to 50034
institutionalization by court order. Except as provided in 50035
division (A)(2) of this section, the affidavit shall be 50036
accompanied by both of the following: 50037

(a) A comprehensive evaluation report prepared by the 50038
person's evaluation team that includes a statement by the members 50039
of the team certifying that they have performed a comprehensive 50040
evaluation of the person and that they are of the opinion that the 50041
person is a mentally retarded person subject to 50042
institutionalization by court order; 50043

(b) An assessment report prepared by the county board of 50044
mental retardation and developmental disabilities under section 50045
5123.711 of the Revised Code specifying that the individual is in 50046
need of services on an emergency or priority basis. 50047

(2) In lieu of the comprehensive evaluation report, the 50048
affidavit may be accompanied by a written and sworn statement that 50049
the person or the guardian of a person adjudicated incompetent has 50050
refused to allow a comprehensive evaluation and county board 50051
assessment and assessment reports. Immediately after accepting an 50052
affidavit that is not accompanied by the reports of a 50053
comprehensive evaluation and county board assessment, the court 50054
shall cause a comprehensive evaluation and county board assessment 50055
of the person named in the affidavit to be performed. The 50056
evaluation shall be conducted in the least restrictive environment 50057
possible and the assessment shall be conducted in the same manner 50058

as assessments conducted under section 5123.711 of the Revised Code. The evaluation and assessment must be completed before a probable cause hearing or full hearing may be held under section 5123.75 or 5123.76 of the Revised Code.

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 50090
the court has determined that the person represents a very 50091
substantial risk of self-impairment, self-injury, or impairment or 50092
injury to others. 50093

Sec. 5123.76. (A) The full hearing shall be conducted in a 50094
manner consistent with the procedures outlined in this chapter and 50095
with due process of law. The hearing shall be held by a judge of 50096
the probate division or, upon transfer by the judge of the probate 50097
division, by another judge of the court of common pleas, or a 50098
referee designated by the judge of the probate division. Any 50099
referee designated by the judge of the probate division must be an 50100
attorney. 50101

(1) The following shall be made available to counsel for the 50102
respondent: 50103

(a) All relevant documents, information, and evidence in the 50104
custody or control of the state or prosecutor; 50105

(b) All relevant documents, information, and evidence in the 50106
custody or control of the institution, facility, or program in 50107
which the respondent currently is held or in which the respondent 50108
has been held pursuant to these proceedings; 50109

(c) With the consent of the respondent, all relevant 50110
documents, information, and evidence in the custody or control of 50111
any institution or person other than the state. 50112

(2) The respondent has the right to be represented by counsel 50113
of the respondent's choice and has the right to attend the hearing 50114
except if unusual circumstances of compelling medical necessity 50115
exist that render the respondent unable to attend and the 50116
respondent has not expressed a desire to attend. 50117

(3) If the respondent is not represented by counsel and the 50118
court determines that the conditions specified in division (A)(2) 50119

of this section justify the respondent's absence and the right to 50120
counsel has not been validly waived, the court shall appoint 50121
counsel forthwith to represent the respondent at the hearing, 50122
reserving the right to tax costs of appointed counsel to the 50123
respondent unless it is shown that the respondent is indigent. If 50124
the court appoints counsel, or if the court determines that the 50125
evidence relevant to the respondent's absence does not justify the 50126
absence, the court shall continue the case. 50127

(4) The respondent shall be informed of the right to retain 50128
counsel, to have independent expert evaluation, and, if an 50129
indigent person, to be represented by court appointed counsel and 50130
have expert independent evaluation at court expense. 50131

(5) The hearing may be closed to the public unless counsel 50132
for the respondent requests that the hearing be open to the 50133
public. 50134

(6) Unless objected to by the respondent, the respondent's 50135
counsel, or the designee of the director of mental retardation and 50136
developmental disabilities, the court, for good cause shown, may 50137
admit persons having a legitimate interest in the proceedings. 50138

(7) The affiant under section 5123.71 of the Revised Code 50139
shall be subject to subpoena by either party. 50140

(8) The court shall examine the sufficiency of all documents 50141
filed and shall inform the respondent, if present, and the 50142
respondent's counsel of the nature of the content of the documents 50143
and the reason for which the respondent is being held or for which 50144
the respondent's placement is being sought. 50145

(9) The court shall receive only relevant, competent, and 50146
material evidence. 50147

(10) The designee of the director shall present the evidence 50148
for the state. In proceedings under this chapter, the attorney 50149

general shall present the comprehensive evaluation, assessment, 50150
diagnosis, prognosis, record of habilitation and care, if any, and 50151
less restrictive habilitation plans, if any. The attorney general 50152
does not have a similar presentation responsibility in connection 50153
with a person who has been found not guilty by reason of insanity 50154
and who is the subject of a hearing under section 2945.40 of the 50155
Revised Code to determine whether the person is a mentally 50156
retarded person subject to institutionalization by court order. 50157

(11) The respondent has the right to testify and the 50158
respondent or the respondent's counsel has the right to subpoena 50159
witnesses and documents and to present and cross-examine 50160
witnesses. 50161

(12) The respondent shall not be compelled to testify and 50162
shall be so advised by the court. 50163

(13) On motion of the respondent or the respondent's counsel 50164
for good cause shown, or upon the court's own motion, the court 50165
may order a continuance of the hearing. 50166

(14) To an extent not inconsistent with this chapter, the 50167
Rules of Civil Procedure shall be applicable. 50168

(B) Unless, upon completion of the hearing, the court finds 50169
by clear and convincing evidence that the respondent named in the 50170
affidavit is a mentally retarded person subject to 50171
institutionalization by court order, it shall order the 50172
respondent's discharge forthwith. 50173

(C) If, upon completion of the hearing, the court finds by 50174
clear and convincing evidence that the respondent is a mentally 50175
retarded person subject to institutionalization by court order, 50176
the court may order the respondent's discharge or order the 50177
respondent, for a period not to exceed ninety days, to any of the 50178
following: 50179

(1) A public institution, provided that commitment of the respondent to the institution will not cause the institution to exceed its licensed capacity determined in accordance with section 5123.19 of the Revised Code and provided that such a placement is indicated by the comprehensive evaluation report filed pursuant to section 5123.71 of the Revised Code;

(2) A private institution;

(3) A county mental retardation program;

(4) Receive private habilitation and care;

(5) Any other suitable facility, program, or the care of any person consistent with the comprehensive evaluation, assessment, diagnosis, prognosis, and habilitation needs of the respondent.

(D) Any order made pursuant to division (C)(2), (4), or (5) of this section shall be conditional upon the receipt by the court of consent by the facility, program, or person to accept the respondent.

(E) In determining the place to which, or the person with whom, the respondent is to be committed, the court shall consider the comprehensive evaluation, assessment, diagnosis, and projected habilitation plan for the respondent, and shall order the implementation of the least restrictive alternative available and consistent with habilitation goals.

(F) If, at any time it is determined by the director of the facility or program to which, or the person to whom, the respondent is committed that the respondent could be equally well habilitated in a less restrictive environment that is available, the following shall occur:

(1) The respondent shall be released by the director of the facility or program or by the person forthwith and referred to the court together with a report of the findings and recommendations

of the facility, program, or person. 50210

(2) The director of the facility or program or the person 50211
shall notify the respondent's counsel and the designee of the 50212
director of mental retardation and developmental disabilities. 50213

(3) The court shall dismiss the case or order placement in 50214
the less restrictive environment. 50215

(G)(1) Except as provided in divisions (G)(2) and (3) of this 50216
section, any person who has been committed under this section may 50217
apply at any time during the ninety-day period for voluntary 50218
admission to an institution under section 5123.69 of the Revised 50219
Code. Upon admission of a voluntary resident, the managing officer 50220
immediately shall notify the court, the respondent's counsel, and 50221
the designee of the director in writing of that fact by mail or 50222
otherwise, and, upon receipt of the notice, the court shall 50223
dismiss the case. 50224

(2) A person who is found incompetent to stand trial or not 50225
guilty by reason of insanity and who is committed pursuant to 50226
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 50227
Code shall not be voluntarily admitted to an institution pursuant 50228
to division (G)(1) of this section until after the termination of 50229
the commitment, as described in division (J) of section 2945.401 50230
of the Revised Code. 50231

(H) If, at the end of any commitment period, the respondent 50232
has not already been discharged or has not requested voluntary 50233
admission status, the director of the facility or program, or the 50234
person to whose care the respondent has been committed, shall 50235
discharge the respondent forthwith, unless at least ten days 50236
before the expiration of that period the designee of the director 50237
of mental retardation and developmental disabilities or the 50238
prosecutor files an application with the court requesting 50239
continued commitment. 50240

(1) An application for continued commitment shall include a written report containing a current comprehensive evaluation and assessment, a diagnosis, a prognosis, an account of progress and past habilitation, and a description of alternative habilitation 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 50272
may make an order pursuant to divisions (C), (D), and (E) of this 50273
section. 50274

(I) Notwithstanding the provisions of division (H) of this 50275
section, no person who is found to be a mentally retarded person 50276
subject to institutionalization by court order pursuant to 50277
division ~~(P)~~(O)(2) of section 5123.01 of the Revised Code shall be 50278
held under involuntary commitment for more than five years. 50279

(J) The managing officer admitting a person pursuant to a 50280
judicial proceeding, within ten working days of the admission, 50281
shall make a report of the admission to the department. 50282

Sec. 5126.01. As used in this chapter: 50283

(A) As used in this division, "adult" means an individual who 50284
is eighteen years of age or over and not enrolled in a program or 50285
service under Chapter 3323. of the Revised Code and an individual 50286
sixteen or seventeen years of age who is eligible for adult 50287
services under rules adopted by the director of mental retardation 50288
and developmental disabilities pursuant to Chapter 119. of the 50289
Revised Code. 50290

(1) "Adult services" means services provided to an adult 50291
outside the home, except when they are provided within the home 50292
according to an individual's assessed needs and identified in an 50293
individual service plan, that support learning and assistance in 50294
the area of self-care, sensory and motor development, 50295
socialization, daily living skills, communication, community 50296
living, social skills, or vocational skills. 50297

(2) "Adult services" includes all of the following: 50298

(a) Adult day habilitation services; 50299

(b) Adult day care; 50300

(c) Prevocational services;	50301
(d) Sheltered employment;	50302
(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;	50303 50304 50305 50306 50307 50308 50309
(f) Community employment services and supported employment services.	50310 50311
(B)(1) "Adult day habilitation services" means adult services that do the following:	50312 50313
(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;	50314 50315 50316 50317 50318 50319 50320 50321
(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.	50322 50323 50324 50325
(2) "Adult day habilitation services" includes all of the following:	50326 50327
(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult	50328 50329 50330

day habilitation services; 50331

(b) Skilled services provided while receiving adult day 50332
habilitation services, including such skilled services as behavior 50333
management intervention, occupational therapy, speech and language 50334
therapy, physical therapy, and nursing services; 50335

(c) Training and education in self-determination designed to 50336
help the individual do one or more of the following: develop 50337
self-advocacy skills, exercise the individual's civil rights, 50338
acquire skills that enable the individual to exercise control and 50339
responsibility over the services received, and acquire skills that 50340
enable the individual to become more independent, integrated, or 50341
productive in the community; 50342

(d) Recreational and leisure activities identified in the 50343
individual's service plan as therapeutic in nature or assistive in 50344
developing or maintaining social supports; 50345

(e) Counseling and assistance provided to obtain housing, 50346
including such counseling as identifying options for either rental 50347
or purchase, identifying financial resources, assessing needs for 50348
environmental modifications, locating housing, and planning for 50349
ongoing management and maintenance of the housing selected; 50350

(f) Transportation necessary to access adult day habilitation 50351
services; 50352

(g) Habilitation management, as described in section 5126.14 50353
of the Revised Code. 50354

(3) "Adult day habilitation services" does not include 50355
activities that are components of the provision of residential 50356
services, family support services, or supported living services. 50357

(C) "Community employment services" or "supported employment 50358
services" means job training and other services related to 50359
employment outside a sheltered workshop. "Community employment 50360

services" or "supported employment services" include all of the 50361
following: 50362

(1) Job training resulting in the attainment of competitive 50363
work, supported work in a typical work environment, or 50364
self-employment; 50365

(2) Supervised work experience through an employer paid to 50366
provide the supervised work experience; 50367

(3) Ongoing work in a competitive work environment at a wage 50368
commensurate with workers without disabilities; 50369

(4) Ongoing supervision by an employer paid to provide the 50370
supervision. 50371

(D) As used in this division, "substantial functional 50372
limitation," "developmental delay," and "established risk" have 50373
the meanings established pursuant to section 5123.011 of the 50374
Revised Code. 50375

"Developmental disability" means a severe, chronic disability 50376
that is characterized by all of the following: 50377

(1) It is attributable to a mental or physical impairment or 50378
a combination of mental and physical impairments, other than a 50379
mental or physical impairment solely caused by mental illness as 50380
defined in division (A) of section 5122.01 of the Revised Code; 50381

(2) It is manifested before age twenty-two; 50382

(3) It is likely to continue indefinitely; 50383

(4) It results in one of the following: 50384

(a) In the case of a person under age three, at least one 50385
developmental delay or an established risk; 50386

(b) In the case of a person at least age three but under age 50387
six, at least two developmental delays or an established risk; 50388

(c) In the case of a person age six or older, a substantial 50389

functional limitation in at least three of the following areas of
major life activity, as appropriate for the person's age:
self-care, receptive and expressive language, learning, mobility,
self-direction, capacity for independent living, and, if the
person is at least age sixteen, capacity for economic
self-sufficiency.

(5) It causes the person to need a combination and sequence
of special, interdisciplinary, or other type of care, treatment,
or provision of services for an extended period of time that is
individually planned and coordinated for the person.

(E) "Early childhood services" means a planned program of
habilitation designed to meet the needs of individuals with mental
retardation or other developmental disabilities who have not
attained compulsory school age.

(F)(1) "Environmental modifications" means the physical
adaptations to an individual's home, specified in the individual's
service plan, that are necessary to ensure the individual's
health, safety, and welfare or that enable the individual to
function with greater independence in the home, and without which
the individual would require institutionalization.

(2) "Environmental modifications" includes such adaptations
as installation of ramps and grab-bars, widening of doorways,
modification of bathroom facilities, and installation of
specialized electric and plumbing systems necessary to accommodate
the individual's medical equipment and supplies.

(3) "Environmental modifications" does not include physical
adaptations or improvements to the home that are of general
utility or not of direct medical or remedial benefit to the
individual, including such adaptations or improvements as
carpeting, roof repair, and central air conditioning.

(G) "Family support services" means the services provided

under a family support services program operated under section 50421
5126.11 of the Revised Code. 50422

(H) "Habilitation" means the process by which the staff of 50423
the facility or agency assists an individual with mental 50424
retardation or other developmental disability in acquiring and 50425
maintaining those life skills that enable the individual to cope 50426
more effectively with the demands of the individual's own person 50427
and environment, and in raising the level of the individual's 50428
personal, physical, mental, social, and vocational efficiency. 50429
Habilitation includes, but is not limited to, programs of formal, 50430
structured education and training. 50431

~~(I) "Habilitation center services" means services provided by 50432
a habilitation center certified by the department of mental 50433
retardation and developmental disabilities under section 5123.041 50434
of the Revised Code and covered by the medicaid program pursuant 50435
to rules adopted under section 5111.041 of the Revised Code. 50436~~

~~(J)~~ "Home and community-based services" means medicaid-funded 50437
home and community-based services specified in division (B)(1) of 50438
section 5111.87 of the Revised Code and provided under the 50439
medicaid waiver components the department of mental retardation 50440
and developmental disabilities administers pursuant to section 50441
5111.871 of the Revised Code. 50442

~~(K)~~(J) "Medicaid" has the same meaning as in section 5111.01 50443
of the Revised Code. 50444

~~(L)~~(K) "Medicaid case management services" means case 50445
management services provided to an individual with mental 50446
retardation or other developmental disability that the state 50447
medicaid plan requires. 50448

~~(M)~~(L) "Mental retardation" means a mental impairment 50449
manifested during the developmental period characterized by 50450
significantly subaverage general intellectual functioning existing 50451

concurrently with deficiencies in the effectiveness or degree with 50452
which an individual meets the standards of personal independence 50453
and social responsibility expected of the individual's age and 50454
cultural group. 50455

~~(N)~~(M) "Residential services" means services to individuals 50456
with mental retardation or other developmental disabilities to 50457
provide housing, food, clothing, habilitation, staff support, and 50458
related support services necessary for the health, safety, and 50459
welfare of the individuals and the advancement of their quality of 50460
life. "Residential services" includes program management, as 50461
described in section 5126.14 of the Revised Code. 50462

~~(O)~~(N) "Resources" means available capital and other assets, 50463
including moneys received from the federal, state, and local 50464
governments, private grants, and donations; appropriately 50465
qualified personnel; and appropriate capital facilities and 50466
equipment. 50467

~~(P)~~(O) "Service and support administration" means the duties 50468
performed by a service and support administrator pursuant to 50469
section 5126.15 of the Revised Code. 50470

~~(Q)~~(P)(1) "Specialized medical, adaptive, and assistive 50471
equipment, supplies, and supports" means equipment, supplies, and 50472
supports that enable an individual to increase the ability to 50473
perform activities of daily living or to perceive, control, or 50474
communicate within the environment. 50475

(2) "Specialized medical, adaptive, and assistive equipment, 50476
supplies, and supports" includes the following: 50477

(a) Eating utensils, adaptive feeding dishes, plate guards, 50478
mylatex straps, hand splints, reaches, feeder seats, adjustable 50479
pointer sticks, interpreter services, telecommunication devices 50480
for the deaf, computerized communications boards, other 50481
communication devices, support animals, veterinary care for 50482

support animals, adaptive beds, supine boards, prone boards, 50483
wedges, sand bags, sidelayers, bolsters, adaptive electrical 50484
switches, hand-held shower heads, air conditioners, humidifiers, 50485
emergency response systems, folding shopping carts, vehicle lifts, 50486
vehicle hand controls, other adaptations of vehicles for 50487
accessibility, and repair of the equipment received. 50488

(b) Nondisposable items not covered by medicaid that are 50489
intended to assist an individual in activities of daily living or 50490
instrumental activities of daily living. 50491

~~(R)~~(O) "Supportive home services" means a range of services 50492
to families of individuals with mental retardation or other 50493
developmental disabilities to develop and maintain increased 50494
acceptance and understanding of such persons, increased ability of 50495
family members to teach the person, better coordination between 50496
school and home, skills in performing specific therapeutic and 50497
management techniques, and ability to cope with specific 50498
situations. 50499

~~(S)~~(R)(1) "Supported living" means services provided for as 50500
long as twenty-four hours a day to an individual with mental 50501
retardation or other developmental disability through any public 50502
or private resources, including moneys from the individual, that 50503
enhance the individual's reputation in community life and advance 50504
the individual's quality of life by doing the following: 50505

(a) Providing the support necessary to enable an individual 50506
to live in a residence of the individual's choice, with any number 50507
of individuals who are not disabled, or with not more than three 50508
individuals with mental retardation and developmental disabilities 50509
unless the individuals are related by blood or marriage; 50510

(b) Encouraging the individual's participation in the 50511
community; 50512

(c) Promoting the individual's rights and autonomy; 50513

(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.	50514 50515 50516
(2) "Supported living" includes the provision of all of the following:	50517 50518
(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;	50519 50520 50521 50522
(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;	50523 50524 50525 50526 50527
(c) Personal care services and homemaker services;	50528
(d) Household maintenance that does not include modifications to the physical structure of the residence;	50529 50530
(e) Respite care services;	50531
(f) Program management, as described in section 5126.14 of the Revised Code.	50532 50533
Sec. 5126.035. (A) As used in this section:	50534
(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.	50535 50536 50537
(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.	50538 50539 50540 50541 50542

(B) Each service contract that a county board of mental 50543
retardation and developmental disabilities enters into with a 50544
provider shall do ~~all~~ both of the following: 50545

(1) ~~Comply with rules adopted under division (E) of this 50546
section;~~ 50547

~~(2)~~ If the provider is to provide home and community-based 50548
services, or medicaid case management services, ~~or habilitation 50549
center services,~~ comply with all applicable statewide medicaid 50550
requirements; 50551

~~(3)~~(2) Include a general operating agreement component and an 50552
individual service needs addendum. 50553

(C) The general operating agreement component shall include 50554
all of the following: 50555

(1) The roles and responsibilities of the county board 50556
regarding services for individuals with mental retardation or 50557
other developmental disability who reside in the county the county 50558
board serves; 50559

(2) The roles and responsibilities of the provider as 50560
specified in the individual service needs addendum; 50561

(3) Procedures for the county board to monitor the provider's 50562
services; 50563

(4) Procedures for the county board to evaluate the quality 50564
of care and cost effectiveness of the provider's services; 50565

(5) Procedures for payment of eligible claims; 50566

(6) If the provider is to provide home and community-based 50567
services, or medicaid case management services, ~~or habilitation 50568
center services,~~ both of the following: 50569

(a) Procedures for reimbursement that conform to the 50570
statewide reimbursement process and the county board's plan 50571

submitted under section 5126.054 of the Revised Code; 50572

(b) Procedures that ensure that the county board pays the 50573
nonfederal share of the medicaid expenditures that the county 50574
board is required by division (A) of section 5126.057 of the 50575
Revised Code to pay. 50576

(7) Procedures for the county board to perform service 50577
utilization reviews and the implementation of required corrective 50578
actions; 50579

(8) Procedures for the provider to submit claims for payment 50580
for a service no later than three hundred thirty days after the 50581
date the service is provided; 50582

(9) Procedures for rejecting claims for payment that are 50583
submitted after the time required by division ~~(B)(9)~~(C)(8) of this 50584
section; 50585

(10) Procedures for developing, modifying, and executing 50586
initial and subsequent service plans. The procedures shall provide 50587
for the provider's participation. 50588

(11) Procedures for affording individuals due process 50589
protections; 50590

(12) General staffing, training, and certification 50591
requirements that are consistent with state requirements and 50592
compensation arrangements that are necessary to attract, train, 50593
and retain competent personnel to deliver the services pursuant to 50594
the individual service needs addendum; 50595

(13) Methods to be used to document services provided and 50596
procedures for submitting reports the county board requires; 50597

(14) Methods for authorizing and documenting within 50598
seventy-two hours changes to the individual service needs 50599
addendum. The methods shall allow for changes to be initially 50600
authorized verbally and subsequently in writing. 50601

(15) Procedures for modifying the individual service needs addendum in accordance with changes to the recipient's individualized service plan;	50602 50603 50604
(16) Procedures for terminating the individual service needs addendum within thirty days of a request made by the recipient;	50605 50606
(17) A requirement that all parties to the contract accept the contract's terms and conditions;	50607 50608
(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;	50609 50610 50611
(19) Procedures for ensuring the health and welfare of the recipient;	50612 50613
(20) Procedures for ensuring fiscal accountability and the collection and reporting of programmatic data;	50614 50615
(21) Procedures for implementing the mediation and arbitration process under section 5126.036 of the Revised Code;	50616 50617
(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;	50618 50619 50620 50621
(23) Anything else allowable under federal and state law that the county board and provider agree to.	50622 50623
(D) The individual service needs addendum shall be consistent with the general operating agreement component and include all of the following:	50624 50625 50626
(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;	50627 50628 50629 50630

(2) A clear and complete description of the services that the recipient is to receive as determined using statewide assessment tools; 50631
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(3) A copy of the recipient's assessment and individualized service plan; 50634
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(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. 50636
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~~(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, or medicaid case management services, ~~or~~ ~~habilitation center services~~ have a medicaid provider agreement with the department of job and family services. 50641
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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: 50648
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(1) Loss of present residence for any reason, including legal action; 50654
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(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; 50656
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(3) Abuse, neglect, or exploitation of the individual; 50660

(4) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;

(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.

(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.

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.

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.

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
board to document requests and to plan appropriately. The board
may not place an individual on the registry who meets the
conditions for receipt of services on an emergency basis.

(C) A county board shall establish a separate waiting list
for each of the following categories of services, and may
establish separate waiting lists within the waiting lists:

(1) Early childhood services;

(2) Educational programs for preschool and school age
children;

(3) Adult services;

(4) Service and support administration;

(5) Residential services and supported living;

(6) Transportation services;

(7) Other services determined necessary and appropriate for
persons with mental retardation or a developmental disability
according to their individual habilitation or service plans;

(8) Family support services provided under section 5126.11 of
the Revised Code.

(D) Except as provided in division (G) of this section, a
county board shall do, as priorities, all of the following in
accordance with the assessment component, approved under section
5123.046 of the Revised Code, of the county board's plan developed
under section 5126.054 of the Revised Code:

(1) For the purpose of obtaining additional federal medicaid
funds for home and community-based services, and medicaid case
management services, ~~and habilitation center services,~~ do both of
the following:

(a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services:

(i) Is twenty-two years of age or older;

(ii) Receives supported living or family support services.

(b) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include adult services:

(i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after enrollment in home and community-based services;

(ii) Receives adult services from the county board.

(2) As federal medicaid funds become available pursuant to division (D)(1) of this section, give an individual who is eligible for home and community-based services and meets any of the following requirements priority for such services over any other individual on a waiting list established under division (C) of this section:

(a) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older;

(b) Is less than twenty-two years of age and has at least one of the following service needs that are unusual in scope or intensity:

(i) Severe behavior problems for which a behavior support plan is needed; 50751
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(ii) An emotional disorder for which anti-psychotic medication is needed; 50753
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(iii) A medical condition that leaves the individual dependent on life-support medical technology; 50755
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(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed; 50757
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(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. 50760
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(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. 50764
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(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 50768
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section of the individuals identified by the department and the
individuals' assessed needs.

(E) Except as provided in division (G) of this section and
for a number of years and beginning on a date specified in rules
adopted under division (K) of this section, a county board shall
give an individual who is eligible for home and community-based
services, resides in a nursing facility, and chooses to move to
another setting with the help of home and community-based
services, 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.

(F) If two or more individuals on a waiting list established
under division (C) of this section for home and community-based
services have priority for the services pursuant to division
(D)(1) or (2) or (E) of this section, a county board may use,
until December 31, ~~2005~~ 2007, criteria specified in rules adopted
under division (K)(2) of this section in determining the order in
which the individuals with priority will be offered the services.
Otherwise, the county board shall offer the home and
community-based services to such individuals in the order they are
placed on the waiting list.

(G)(1) No individual may receive priority for services
pursuant to division (D) or (E) of this section over an individual
placed on a waiting list established under division (C) of this
section on an emergency status.

(2) No more than four hundred individuals in the state may
receive priority for services during the ~~2004~~ 2006 and ~~2005~~ 2007
biennium pursuant to division (D)(2)(b) of this section.

(3) No more than a total of seventy-five individuals in the
state may receive priority for services during state fiscal years
2002 and 2003 pursuant to division (D)(3) of this section.

(4) No more than forty individuals in the state may receive 50813
priority for services pursuant to division (E) of this section for 50814
each year that priority category is in effect as specified in 50815
rules adopted under division (K) of this section. 50816

(H) Prior to establishing any waiting list under this 50817
section, a county board shall develop and implement a policy for 50818
waiting lists that complies with this section and rules adopted 50819
under division (K) of this section. 50820

Prior to placing an individual on a waiting list, the county 50821
board shall assess the service needs of the individual in 50822
accordance with all applicable state and federal laws. The county 50823
board shall place the individual on the appropriate waiting list 50824
and may place the individual on more than one waiting list. The 50825
county board shall notify the individual of the individual's 50826
placement and position on each waiting list on which the 50827
individual is placed. 50828

At least annually, the county board shall reassess the 50829
service needs of each individual on a waiting list. If it 50830
determines that an individual no longer needs a program or 50831
service, the county board shall remove the individual from the 50832
waiting list. If it determines that an individual needs a program 50833
or service other than the one for which the individual is on the 50834
waiting list, the county board shall provide the program or 50835
service to the individual or place the individual on a waiting 50836
list for the program or service in accordance with the board's 50837
policy for waiting lists. 50838

When a program or service for which there is a waiting list 50839
becomes available, the county board shall reassess the service 50840
needs of the individual next scheduled on the waiting list to 50841
receive that program or service. If the reassessment demonstrates 50842
that the individual continues to need the program or service, the 50843

board shall offer the program or service to the individual. If it
determines that an individual no longer needs a program or
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.

(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.

(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.

(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. 50876

(2) As part of the rules adopted under this division, the 50877
department shall adopt rules establishing criteria a county board 50878
may use under division (F) of this section in determining the 50879
order in which individuals with priority for home and 50880
community-based services will be offered the services. The rules 50881
shall also specify conditions under which a county board, when 50882
there is no individual with priority for home and community-based 50883
services pursuant to division (D)(1) or (2) or (E) of this section 50884
available and appropriate for the services, may offer the services 50885
to an individual on a waiting list for the services but not given 50886
such priority for the services. The rules adopted under division 50887
(K)(2) of this section shall cease to have effect December 31, 50888
~~2005~~ 2007. 50889

(3) As part of the rules adopted under this division, the 50890
department shall adopt rules specifying both of the following for 50891
the priority category established under division (E) of this 50892
section: 50893

(a) The number of years, which shall not exceed five, that 50894
the priority category will be in effect; 50895

(b) The date that the priority category is to go into effect. 50896

(L) The following shall take precedence over the applicable 50897
provisions of this section: 50898

(1) Medicaid rules and regulations; 50899

(2) Any specific requirements that may be contained within a 50900
medicaid state plan amendment or waiver program that a county 50901
board has authority to administer or with respect to which it has 50902
authority to provide services, programs, or supports. 50903

Sec. 5126.054. (A) Each county board of mental retardation 50904
and developmental disabilities shall, by resolution, develop a 50905

three-calendar year plan that includes the following four 50906
components: 50907

(1) An assessment component that includes all of the 50908
following: 50909

(a) The number of individuals with mental retardation or 50910
other developmental disability residing in the county who need the 50911
level of care provided by an intermediate care facility for the 50912
mentally retarded, may seek home and community-based services, are 50913
given priority for the services pursuant to division (D) of 50914
section 5126.042 of the Revised Code; the service needs of those 50915
individuals; and the projected annualized cost for services; 50916

(b) The source of funds available to the county board to pay 50917
the nonfederal share of medicaid expenditures that the county 50918
board is required by division (A) of section 5126.057 of the 50919
Revised Code to pay; 50920

(c) Any other applicable information or conditions that the 50921
department of mental retardation and developmental disabilities 50922
requires as a condition of approving the component under section 50923
5123.046 of the Revised Code. 50924

(2) A component that provides for the recruitment, training, 50925
and retention of existing and new direct care staff necessary to 50926
implement services included in individualized service plans, 50927
including behavior management services and health management 50928
services such as delegated nursing and other habilitation 50929
services, and protect the health and welfare of individuals 50930
receiving services included in the individual's individualized 50931
service plan by complying with safeguards for unusual and major 50932
unusual incidents, day-to-day program management, and other 50933
requirements the department shall identify. A county board shall 50934
develop this component in collaboration with providers of 50935
medicaid-funded services with which the county board contracts. A 50936

county board shall include all of the following in the component: 50937

(a) The source and amount of funds available for the 50938
component; 50939

(b) A plan and timeline for implementing the component with 50940
the medicaid providers under contract with the county board; 50941

(c) The mechanisms the county board shall use to ensure the 50942
financial and program accountability of the medicaid provider's 50943
implementation of the component. 50944

(3) A preliminary implementation component that specifies the 50945
number of individuals to be provided, during the first year that 50946
the plan is in effect, home and community-based services pursuant 50947
to the priority given to them under divisions (D)(1) and (2) of 50948
section 5126.042 of the Revised Code and the types of home and 50949
community-based services the individuals are to receive; 50950

(4) A component that provides for the implementation of 50951
~~habilitation center services,~~ medicaid case management services, 50952
and home and community-based services for individuals who begin to 50953
receive the services on or after the date the plan is approved 50954
under section 5123.046 of the Revised Code. A county board shall 50955
include all of the following in the component: 50956

(a) If the department of mental retardation and developmental 50957
disabilities or department of job and family services requires, an 50958
agreement to pay the nonfederal share of medicaid expenditures 50959
that the county board is required by division (A) of section 50960
5126.057 of the Revised Code to pay; 50961

(b) How the services are to be phased in over the period the 50962
plan covers, including how the county board will serve individuals 50963
on a waiting list established under division (C) of section 50964
5126.042 who are given priority status under division (D)(1) of 50965
that section; 50966

(c) Any agreement or commitment regarding the county board's 50967
funding of home and community-based services that the county board 50968
has with the department at the time the county board develops the 50969
component; 50970

(d) Assurances adequate to the department that the county 50971
board will comply with all of the following requirements: 50972

(i) To provide the types of home and community-based services 50973
specified in the preliminary implementation component required by 50974
division (A)(3) of this section to at least the number of 50975
individuals specified in that component; 50976

(ii) To use any additional funds the county board receives 50977
for the services to improve the county board's resource 50978
capabilities for supporting such services available in the county 50979
at the time the component is developed and to expand the services 50980
to accommodate the unmet need for those services in the county; 50981

(iii) To employ a business manager who is either a new 50982
employee who has earned at least a bachelor's degree in business 50983
administration or a current employee who has the equivalent 50984
experience of a bachelor's degree in business administration. If 50985
the county board will employ a new employee, the county board 50986
shall include in the component a timeline for employing the 50987
employee. 50988

(iv) To employ or contract with a medicaid services manager 50989
who is either a new employee who has earned at least a bachelor's 50990
degree or a current employee who has the equivalent experience of 50991
a bachelor's degree. If the county board will employ a new 50992
employee, the county board shall include in the component a 50993
timeline for employing the employee. Two or three county boards 50994
that have a combined total enrollment in county board services not 50995
exceeding one thousand individuals as determined pursuant to 50996
certifications made under division (B) of section 5126.12 of the 50997

Revised Code may satisfy this requirement by sharing the services 50998
of a medicaid services manager or using the services of a medicaid 50999
services manager employed by or under contract with a regional 51000
council that the county boards establish under section 5126.13 of 51001
the Revised Code. 51002

(e) An agreement to comply with the method, developed by 51003
rules adopted under section 5123.0413 of the Revised Code, of 51004
paying for extraordinary costs, including extraordinary costs for 51005
services to individuals with mental retardation or other 51006
developmental disability, and ensuring the availability of 51007
adequate funds in the event a county property tax levy for 51008
services for individuals with mental retardation or other 51009
developmental disability fails; 51010

(f) Programmatic and financial accountability measures and 51011
projected outcomes expected from the implementation of the plan; 51012

(g) Any other applicable information or conditions that the 51013
department requires as a condition of approving the component 51014
under section 5123.046 of the Revised Code. 51015

(B) For the purpose of obtaining the department's approval 51016
under section 5123.046 of the Revised Code of the plan the county 51017
board develops under division (A) of this section, a county board 51018
shall do all of the following: 51019

(1) Submit the components required by divisions (A)(1) and 51020
(2) of this section to the department not later than August 1, 51021
2001; 51022

(2) Submit the component required by division (A)(3) of this 51023
section to the department not later than January 31, 2002; 51024

(3) Submit the component required by division (A)(4) of this 51025
section to the department not later than July 1, 2002. 51026

(C) A county board whose plan developed under division (A) of 51027

this section is approved by the department under section 5123.046 51028
of the Revised Code shall update and renew the plan in accordance 51029
with a schedule the department shall develop. 51030

Sec. 5126.055. (A) Except as provided in section 5126.056 of 51031
the Revised Code, a county board of mental retardation and 51032
developmental disabilities has medicaid local administrative 51033
authority to, and shall, do all of the following for an individual 51034
with mental retardation or other developmental disability who 51035
resides in the county that the county board serves and seeks or 51036
receives home and community-based services: 51037

(1) Perform assessments and evaluations of the individual. As 51038
part of the assessment and evaluation process, the county board 51039
shall do all of the following: 51040

(a) Make a recommendation to the department of mental 51041
retardation and developmental disabilities on whether the 51042
department should approve or deny the individual's application for 51043
the services, including on the basis of whether the individual 51044
needs the level of care an intermediate care facility for the 51045
mentally retarded provides; 51046

(b) If the individual's application is denied because of the 51047
county board's recommendation and the individual requests a 51048
hearing under section 5101.35 of the Revised Code, present, with 51049
the department of mental retardation and developmental 51050
disabilities or department of job and family services, whichever 51051
denies the application, the reasons for the recommendation and 51052
denial at the hearing; 51053

(c) If the individual's application is approved, recommend to 51054
the departments of mental retardation and developmental 51055
disabilities and job and family services the services that should 51056
be included in the individual's individualized service plan and, 51057

if either department approves, reduces, denies, or terminates a
service included in the individual's individualized service plan
under section 5111.871 of the Revised Code because of the county
board's recommendation, 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.

(2) If the individual has been identified by the department
of mental retardation and developmental disabilities as an
individual to receive priority for home and community-based
services pursuant to division (D)(3) of section 5126.042 of the
Revised Code, assist the department in expediting the transfer of
the individual from an intermediate care facility for the mentally
retarded or nursing facility to the home and community-based
services;

(3) In accordance with the rules adopted under section
5126.046 of the Revised Code, perform the county board's duties
under that section regarding assisting the individual's right to
choose a qualified and willing provider of the services and, at a
hearing under section 5101.35 of the Revised Code, present
evidence of the process for appropriate assistance in choosing
providers;

(4) Unless the county board provides the services under
division (A)(5) of this section, contract with the person or
government entity the individual chooses in accordance with
section 5126.046 of the Revised Code 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 5123.045 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;~~ 51121
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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;~~ 51123
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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;~~ 51128
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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;~~ 51142
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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;~~ 51149
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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~~ 51184
~~services in accordance with the individual's approved~~ 51185
~~individualized service plan;~~ 51186

~~(8) Have an investigative agent conduct investigations under~~ 51187
~~section 5126.313 of the Revised Code that concern the individual;~~ 51188

~~(9) Have a service and support administrator perform the~~ 51189
~~duties under division (B)(9) of section 5126.15 of the Revised~~ 51190
~~Code that concern the individual.~~ 51191

~~(C)~~ A county board shall perform its medicaid local 51192
administrative authority under this section in accordance with all 51193
of the following: 51194

(1) The county board's plan that the department of mental 51195
retardation and developmental disabilities approves under section 51196
5123.046 of the Revised Code; 51197

(2) All applicable federal and state laws; 51198

(3) All applicable policies of the departments of mental 51199
retardation and developmental disabilities and job and family 51200
services and the United States department of health and human 51201
services; 51202

(4) The department of job and family services' supervision 51203
under its authority under section 5111.01 of the Revised Code to 51204
act as the single state medicaid agency; 51205

(5) The department of mental retardation and developmental 51206
disabilities' oversight. 51207

~~(D)~~(C) The departments of mental retardation and 51208
developmental disabilities and job and family services shall 51209
communicate with and provide training to county boards regarding 51210
medicaid local administrative authority granted by this section. 51211
The communication and training shall include issues regarding 51212
audit protocols and other standards established by the United 51213

States department of health and human services that the 51214
departments determine appropriate for communication and training. 51215
County boards shall participate in the training. The departments 51216
shall assess the county board's compliance against uniform 51217
standards that the departments shall establish. 51218

~~(E)~~(D) A county board may not delegate its medicaid local 51219
administrative authority granted under this section but may 51220
contract with a person or government entity, including a council 51221
of governments, for assistance with its medicaid local 51222
administrative authority. A county board that enters into such a 51223
contract shall notify the director of mental retardation and 51224
developmental disabilities. The notice shall include the tasks and 51225
responsibilities that the contract gives to the person or 51226
government entity. The person or government entity shall comply in 51227
full with all requirements to which the county board is subject 51228
regarding the person or government entity's tasks and 51229
responsibilities under the contract. The county board remains 51230
ultimately responsible for the tasks and responsibilities. 51231

~~(F)~~(E) A county board that has medicaid local administrative 51232
authority under this section shall, through the departments of 51233
mental retardation and developmental disabilities and job and 51234
family services, reply to, and cooperate in arranging compliance 51235
with, a program or fiscal audit or program violation exception 51236
that a state or federal audit or review discovers. The department 51237
of job and family services shall timely notify the department of 51238
mental retardation and developmental disabilities and the county 51239
board of any adverse findings. After receiving the notice, the 51240
county board, in conjunction with the department of mental 51241
retardation and developmental disabilities, shall cooperate fully 51242
with the department of job and family services and timely prepare 51243
and send to the department a written plan of correction or 51244
response to the adverse findings. The county board is liable for 51245

any adverse findings that result from an action it takes or fails 51246
to take in its implementation of medicaid local administrative 51247
authority. 51248

~~(G)~~(F) If the department of mental retardation and 51249
developmental disabilities or department of job and family 51250
services determines that a county board's implementation of its 51251
medicaid local administrative authority under this section is 51252
deficient, the department that makes the determination shall 51253
require that county board do the following: 51254

(1) If the deficiency affects the health, safety, or welfare 51255
of an individual with mental retardation or other developmental 51256
disability, correct the deficiency within twenty-four hours; 51257

(2) If the deficiency does not affect the health, safety, or 51258
welfare of an individual with mental retardation or other 51259
developmental disability, receive technical assistance from the 51260
department or submit a plan of correction to the department that 51261
is acceptable to the department within sixty days and correct the 51262
deficiency within the time required by the plan of correction. 51263

Sec. 5126.056. (A) The department of mental retardation and 51264
developmental disabilities shall take action under division (B) of 51265
this section against a county board of mental retardation and 51266
developmental disabilities if any of the following are the case: 51267

(1) The county board fails to submit to the department all 51268
the components of its three-year plan required by section 5126.054 51269
of the Revised Code within the time required by division (B) of 51270
that section. 51271

(2) The department disapproves the county board's three-year 51272
plan under section 5123.046 of the Revised Code. 51273

(3) The county board fails, as required by division (C) of 51274
section 5126.054 of the Revised Code, to update and renew its 51275

three-year plan in accordance with a schedule the department
develops under that section. 51276
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(4) The county board fails to implement its initial or
renewed three-year plan approved by the department. 51278
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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. 51280
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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. 51283
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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. 51286
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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 51299
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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.

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The county board shall transfer control of state and federal funds it is otherwise eligible to receive for the services for which the county board's medicaid local administrative authority is terminated and funds the county board may use under division (B) of section 5126.057 of the Revised Code to pay the nonfederal share of the services that the county board is required by division (A) of that section to pay. The county board shall transfer control of the funds to the contracting authority or administrative receiver administering the services. The amount the county board shall transfer shall be the amount necessary for the contracting authority or administrative receiver to fulfill its duties in administering the services, including its duties to pay its personnel for time worked, travel, and related matters. If the county board fails to make the transfer, the department may withhold the state and federal funds from the county board and bring a mandamus action against the county board in the court of common pleas of the county served by the county board or in the Franklin county court of common pleas. The mandamus action may not require that the county board transfer any funds other than the funds the county board is required by division (B) of this section to transfer.

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The contracting authority or administrative receiver has the right to authorize the payment of bills in the same manner that the county board may authorize payment of bills under this chapter and section 319.16 of the Revised Code.

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Sec. 5126.057. (A) A county board of mental retardation and developmental disabilities that has medicaid local administrative authority under division (A) of section 5126.055 of the Revised Code for home and community-based services shall pay the nonfederal share of medicaid expenditures for such services

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provided to an individual with mental retardation or other 51370
developmental disability who the county board determines under 51371
section 5126.041 of the Revised Code is eligible for county board 51372
services unless division ~~(C)~~(B)(2) of section 5123.047 of the 51373
Revised Code requires the department of mental retardation and 51374
developmental disabilities to pay the nonfederal share. 51375

A county board that ~~has medicaid local administrative~~ 51376
~~authority under division (B) of section 5126.055 of the Revised~~ 51377
~~Code for~~ provides medicaid case management services shall pay the 51378
nonfederal share of medicaid expenditures for such services 51379
provided to an individual with mental retardation or other 51380
developmental disability who the county board determines under 51381
section 5126.041 of the Revised Code is eligible for county board 51382
services ~~unless division (B)(2) of section 5123.047 of the Revised~~ 51383
~~Code requires the department of mental retardation and~~ 51384
~~developmental disabilities to pay the nonfederal share.~~ 51385

~~A county board shall pay the nonfederal share of medicaid~~ 51386
~~expenditures for habilitation center services when required to do~~ 51387
~~so by division (D) of section 5111.041 of the Revised Code.~~ 51388

(B) A county board may use the following funds to pay the 51389
nonfederal share of the services that the county board is required 51390
by division (A) of this section to pay: 51391

(1) To the extent consistent with the levy that generated the 51392
taxes, the following taxes: 51393

(a) Taxes levied pursuant to division (L) of section 5705.19 51394
of the Revised Code and section 5705.222 of the Revised Code; 51395

(b) Taxes levied under section 5705.191 of the Revised Code 51396
that the board of county commissioners allocates to the county 51397
board to pay the nonfederal share of the services. 51398

(2) Funds that the department of mental retardation and 51399

developmental disabilities distributes to the county board under 51400
sections 5126.11, 5126.12, 5126.15, 5126.18, and 5126.44 of the 51401
Revised Code; 51402

~~(3) Funds that the department allocates to the county board 51403
for habilitation center services provided under section 5111.041 51404
of the Revised Code; 51405~~

~~(4) Earned federal revenue funds the county board receives 51406
for medicaid services the county board provides pursuant to the 51407
county board's valid medicaid provider agreement. 51408~~

(C) If by December 31, 2001, the United States secretary of 51409
health and human services approves at least five hundred more 51410
slots for home and community-based services for calendar year 2002 51411
than were available for calendar year 2001, each county board 51412
shall provide, by the last day of calendar year 2001, assurances 51413
to the department of mental retardation and developmental 51414
disabilities that the county board will have for calendar year 51415
2002 at least one-third of the value of one-half, effective mill 51416
levied in the county the preceding year available to pay the 51417
nonfederal share of the services that the county board is required 51418
by division (A) of this section to pay. 51419

If by December 31, 2002, the United States secretary approves 51420
at least five hundred more slots for home and community-based 51421
services for calendar year 2003 than were available for calendar 51422
year 2002, each county board shall provide, by the last day of 51423
calendar year 2002, assurances to the department that the county 51424
board will have for calendar year 2003 at least two-thirds of the 51425
value of one-half, effective mill levied in the county the 51426
preceding year available to pay the nonfederal share of the 51427
services that the county board is required by division (A) of this 51428
section to pay. 51429

If by December 31, 2003, the United States secretary approves 51430

at least five hundred more slots for home and community-based 51431
services for calendar year 2004 than were available for calendar 51432
year 2003, each county board shall provide, by the last day of 51433
calendar year 2003 and each calendar year thereafter, assurances 51434
to the department that the county board will have for calendar 51435
year 2004 and each calendar year thereafter at least the value of 51436
one-half, effective mill levied in the county the preceding year 51437
available to pay the nonfederal share of the services that the 51438
county board is required by division (A) of this section to pay. 51439

(D) Each year, each county board shall adopt a resolution 51440
specifying the amount of funds it will use in the next year to pay 51441
the nonfederal share of the services that the county board is 51442
required by division (A) of this section to pay. The amount 51443
specified shall be adequate to assure that the services will be 51444
available in the county in a manner that conforms to all 51445
applicable state and federal laws. A county board shall state in 51446
its resolution that the payment of the nonfederal share represents 51447
an ongoing financial commitment of the county board. A county 51448
board shall adopt the resolution in time for the county auditor to 51449
make the determination required by division (E) of this section. 51450

(E) Each year, a county auditor shall determine whether the 51451
amount of funds a county board specifies in the resolution it 51452
adopts under division (D) of this section will be available in the 51453
following year for the county board to pay the nonfederal share of 51454
the services that the county board is required by division (A) of 51455
this section to pay. The county auditor shall make the 51456
determination not later than the last day of the year before the 51457
year in which the funds are to be used. 51458

Sec. 5126.12. (A) As used in this section: 51459

(1) "Approved school age class" means a class operated by a 51460
county board of mental retardation and developmental disabilities 51461

and funded by the department of education under section 3317.20 of the Revised Code. 51462
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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. 51464
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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. 51468
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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. 51477
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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.~~ 51485
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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. 51489
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(B) Each county board of mental retardation and developmental 51492

disabilities shall certify to the director of mental retardation 51493
and developmental disabilities all of the following: 51494

(1) On or before the fifteenth day of October, the average 51495
daily membership for the first full week of programs and services 51496
during October receiving: 51497

(a) Early childhood services provided pursuant to section 51498
5126.05 of the Revised Code for children who are less than three 51499
years of age on the thirtieth day of September of the academic 51500
year; 51501

(b) Special education for handicapped children in approved 51502
school age classes; 51503

(c) Adult services for persons sixteen years of age and older 51504
operated pursuant to section 5126.05 and division (B) of section 51505
5126.051 of the Revised Code. Separate counts shall be made for 51506
the following: 51507

(i) Persons enrolled in traditional adult services who are 51508
eligible for but not enrolled in active treatment ~~under the~~ 51509
~~community alternative funding system;~~ 51510

(ii) Persons enrolled in traditional adult services who are 51511
eligible for and enrolled in active treatment ~~under the community~~ 51512
~~alternative funding system;~~ 51513

(iii) Persons enrolled in traditional adult services but who 51514
are not eligible for active treatment ~~under the community~~ 51515
~~alternative funding system;~~ 51516

(iv) Persons participating in community employment services. 51517
To be counted as participating in community employment services, a 51518
person must have spent an average of no less than ten hours per 51519
week in that employment during the preceding six months. 51520

(d) Other programs in the county for individuals with mental 51521
retardation and developmental disabilities that have been approved 51522

for payment of subsidy by the department of mental retardation and 51523
developmental disabilities. 51524

The membership in each such program and service in the county 51525
shall be reported on forms prescribed by the department of mental 51526
retardation and developmental disabilities. 51527

The department of mental retardation and developmental 51528
disabilities shall adopt rules defining full-time equivalent 51529
enrollees and for determining the average daily membership 51530
therefrom, except that certification of average daily membership 51531
in approved school age classes shall be in accordance with rules 51532
adopted by the state board of education. The average daily 51533
membership figure shall be determined by dividing the amount 51534
representing the sum of the number of enrollees in each program or 51535
service in the week for which the certification is made by the 51536
number of days the program or service was offered in that week. No 51537
enrollee may be counted in average daily membership for more than 51538
one program or service. 51539

(2) By the fifteenth day of December, the number of children 51540
enrolled in approved preschool units on the first day of December; 51541

(3) On or before the thirtieth day of March, an itemized 51542
report of all income and operating expenditures for the 51543
immediately preceding calendar year, in the format specified by 51544
the department of mental retardation and developmental 51545
disabilities; 51546

(4) By the fifteenth day of February, a report of the total 51547
annual cost per enrollee for operation of programs and services in 51548
the preceding calendar year. The report shall include a grand 51549
total of all programs operated, the cost of the individual 51550
programs, and the sources of funds applied to each program. 51551

(5) That each required certification and report is in 51552
accordance with rules established by the department of mental 51553

retardation and developmental disabilities and the state board of
education for the operation and subsidization of the programs and
services. 51554
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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. 51557
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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: 51563
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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;~~ 51571
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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;~~ 51575
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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;~~ 51579
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(4) No less than one thousand five hundred dollars times the
certified average daily membership of persons participating in 51583
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community employment services. 51585

(E) The department shall distribute this subsidy to county 51586
boards in quarterly installments of equal amounts. The 51587
installments shall be made not later than the thirtieth day of 51588
September, the thirty-first day of December, the thirty-first day 51589
of March, and the thirtieth day of June. 51590

(F) The director of mental retardation and developmental 51591
disabilities shall make efforts to obtain increases in the 51592
subsidies for early childhood services and adult services so that 51593
the amount of the subsidies is equal to at least fifty per cent of 51594
the statewide average cost of those services minus any applicable 51595
federal reimbursements for those services. The director shall 51596
advise the director of budget and management of the need for any 51597
such increases when submitting the biennial appropriations request 51598
for the department. 51599

(G) In determining the reimbursement of a county board for 51600
the provision of service and support administration, family 51601
support services, and other services required or approved by the 51602
director for which children three through twenty-one years of age 51603
are eligible, the department shall include the average daily 51604
membership in approved school age or preschool units. The 51605
department, in accordance with this section and upon receipt and 51606
approval of the certification required by this section and any 51607
other information it requires to enable it to determine a board's 51608
payments, shall pay the agency providing the specialized training 51609
the amounts payable under this section. 51610

Sec. 5139.01. (A) As used in this chapter: 51611

(1) "Commitment" means the transfer of the physical custody 51612
of a child or youth from the court to the department of youth 51613
services. 51614

(2) "Permanent commitment" means a commitment that vests legal custody of a child in the department of youth services. 51615
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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. 51617
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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. 51632
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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. 51638
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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 51640
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until the legal custody is terminated as otherwise provided by law. 51646
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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. 51648
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(8) "Discharge" means that the department of youth services' legal custody of a child is terminated. 51651
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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. 51653
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(10) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code. 51657
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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. 51659
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(12) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code. 51667
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(13) "Public safety beds" means all of the following: 51669

(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 51670
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community corrections facility; 51676

(b) Felony delinquents who, while committed to the department 51677
of youth services and in the care and custody of an institution or 51678
a community corrections facility, are adjudicated delinquent 51679
children for having committed in that institution or community 51680
corrections facility an act that if committed by an adult would be 51681
a misdemeanor or a felony; 51682

(c) Children who satisfy all of the following: 51683

(i) They are at least ten years of age but less than eighteen 51684
years of age. 51685

(ii) They are adjudicated delinquent children for having 51686
committed acts that if committed by an adult would be a felony. 51687

(iii) They are committed to the department of youth services 51688
by the juvenile court of a county that has had one-tenth of one 51689
per cent or less of the statewide adjudications for felony 51690
delinquents as averaged for the past four fiscal years. 51691

(iv) They are in the care and custody of an institution or a 51692
community corrections facility. 51693

(d) Felony delinquents who, while committed to the department 51694
of youth services and in the care and custody of an institution 51695
are serving disciplinary time for having committed an act 51696
described in division (A)~~(19)~~(18)(a), (b), or (c) of this section, 51697
and who have been institutionalized or institutionalized in a 51698
secure facility for the minimum period of time specified in 51699
divisions (A)(1)(b) to (e) of section 2152.16 of the Revised Code. 51700

(e) Felony delinquents who are subject to and serving a 51701
three-year period of commitment order imposed by a juvenile court 51702
pursuant to divisions (A) and (B) of section 2152.17 of the 51703
Revised Code for an act, other than a violation of section 2911.11 51704
of the Revised Code, that would be a category one offense or 51705

category two offense if committed by an adult. 51706

(f) Felony delinquents who are described in divisions 51707
(A)(13)(a) to (e) of this section, who have been granted a 51708
judicial release to court supervision under division (B) of 51709
section 2152.22 of the Revised Code or a judicial release to the 51710
department of youth services supervision under division (C) of 51711
that section from the commitment to the department of youth 51712
services for the act described in divisions (A)(13)(a) to (e) of 51713
this section, who have violated the terms and conditions of that 51714
release, and who, pursuant to an order of the court of the county 51715
in which the particular felony delinquent was placed on release 51716
that is issued pursuant to division (D) of section 2152.22 of the 51717
Revised Code, have been returned to the department for 51718
institutionalization or institutionalization in a secure facility. 51719

(g) Felony delinquents who have been committed to the custody 51720
of the department of youth services, who have been granted 51721
supervised release from the commitment pursuant to section 5139.51 51722
of the Revised Code, who have violated the terms and conditions of 51723
that supervised release, and who, pursuant to an order of the 51724
court of the county in which the particular child was placed on 51725
supervised release issued pursuant to division (F) of section 51726
5139.52 of the Revised Code, have had the supervised release 51727
revoked and have been returned to the department for 51728
institutionalization. A felony delinquent described in this 51729
division shall be a public safety bed only for the time during 51730
which the felony delinquent is institutionalized as a result of 51731
the revocation subsequent to the initial thirty-day period of 51732
institutionalization required by division (F) of section 5139.52 51733
of the Revised Code. 51734

(14) Unless the context requires a different meaning, 51735
"community corrections facility" means a county or multicounty 51736
rehabilitation center for felony delinquents who have been 51737

committed to the department of youth services and diverted from 51738
care and custody in an institution and placed in the 51739
rehabilitation center pursuant to division (E) of section 5139.36 51740
of the Revised Code. 51741

(15) "Secure facility" means any facility that is designed 51742
and operated to ensure that all of its entrances and exits are 51743
under the exclusive control of its staff and to ensure that, 51744
because of that exclusive control, no child who has been 51745
institutionalized in the facility may leave the facility without 51746
permission or supervision. 51747

(16) "Community residential program" means a program that 51748
satisfies both of the following: 51749

(a) It is housed in a building or other structure that has no 51750
associated major restraining construction, including, but not 51751
limited to, a security fence. 51752

(b) It provides twenty-four-hour care, supervision, and 51753
programs for felony delinquents who are in residence. 51754

(17) "Category one offense" and "category two offense" have 51755
the same meanings as in section 2151.26 of the Revised Code. 51756

(18) "Disciplinary time" means additional time that the 51757
department of youth services requires a felony delinquent to serve 51758
in an institution, that delays the felony delinquent's planned 51759
release, and that the department imposes upon the felony 51760
delinquent following the conduct of an internal due process 51761
hearing for having committed any of the following acts while 51762
committed to the department and in the care and custody of an 51763
institution: 51764

(a) An act that if committed by an adult would be a felony; 51765

(b) An act that if committed by an adult would be a 51766
misdemeanor; 51767

(c) An act that is not described in division (A)(18)(a) or 51768
(b) of this section and that violates an institutional rule of 51769
conduct of the department. 51770

(19) "Unruly child" has the same meaning as in section 51771
2151.022 of the Revised Code. 51772

(20) "Revocation" means the act of revoking a child's 51773
supervised release for a violation of a term or condition of the 51774
child's supervised release in accordance with section 5139.52 of 51775
the Revised Code. 51776

(21) "Release authority" means the release authority of the 51777
department of youth services that is established by section 51778
5139.50 of the Revised Code. 51779

(22) "Supervised release" means the event of the release of a 51780
child under this chapter from an institution and the period after 51781
that release during which the child is supervised and assisted by 51782
an employee of the department of youth services under specific 51783
terms and conditions for reintegration of the child into the 51784
community. 51785

(23) "Victim" means the person identified in a police report, 51786
complaint, or information as the victim of an act that would have 51787
been a criminal offense if committed by an adult and that provided 51788
the basis for adjudication proceedings resulting in a child's 51789
commitment to the legal custody of the department of youth 51790
services. 51791

(24) "Victim's representative" means a member of the victim's 51792
family or another person whom the victim or another authorized 51793
person designates in writing, pursuant to section 5139.56 of the 51794
Revised Code, to represent the victim with respect to proceedings 51795
of the release authority of the department of youth services and 51796
with respect to other matters specified in that section. 51797

(25) "Member of the victim's family" means a spouse, child, 51798
stepchild, sibling, parent, stepparent, grandparent, other 51799
relative, or legal guardian of a child but does not include a 51800
person charged with, convicted of, or adjudicated a delinquent 51801
child for committing a criminal or delinquent act against the 51802
victim or another criminal or delinquent act arising out of the 51803
same conduct, criminal or delinquent episode, or plan as the 51804
criminal or delinquent act committed against the victim. 51805

(26) "Judicial release to court supervision" means a release 51806
of a child from institutional care or institutional care in a 51807
secure facility that is granted by a court pursuant to division 51808
(B) of section 2152.22 of the Revised Code during the period 51809
specified in that division. 51810

(27) "Judicial release to department of youth services 51811
supervision" means a release of a child from institutional care or 51812
institutional care in a secure facility that is granted by a court 51813
pursuant to division (C) of section 2152.22 of the Revised Code 51814
during the period specified in that division. 51815

(28) "Juvenile justice system" includes all of the functions 51816
of the juvenile courts, the department of youth services, any 51817
public or private agency whose purposes include the prevention of 51818
delinquency or the diversion, adjudication, detention, or 51819
rehabilitation of delinquent children, and any of the functions of 51820
the criminal justice system that are applicable to children. 51821

(29) "Metropolitan county criminal justice services agency" 51822
means an agency that is established pursuant to division (A) of 51823
section ~~181.54~~ 5502.64 of the Revised Code. 51824

(30) "Administrative planning district" means a district that 51825
is established pursuant to division (A) or (B) of section ~~181.56~~ 51826
5502.66 of the Revised Code. 51827

(31) "Criminal justice coordinating council" means a criminal 51828

justice services agency that is established pursuant to division 51829
(D) of section ~~181.56~~ 5502.66 of the Revised Code. 51830

(32) "Comprehensive plan" means a document that coordinates, 51831
evaluates, and otherwise assists, on an annual or multi-year 51832
basis, all of the functions of the juvenile justice systems of the 51833
state or a specified area of the state, that conforms to the 51834
priorities of the state with respect to juvenile justice systems, 51835
and that conforms with the requirements of all federal criminal 51836
justice acts. These functions include, but are not limited to, all 51837
of the following: 51838

(a) Delinquency; 51839

(b) Identification, detection, apprehension, and detention of 51840
persons charged with delinquent acts; 51841

(c) Assistance to crime victims or witnesses, except that the 51842
comprehensive plan does not include the functions of the attorney 51843
general pursuant to sections 109.91 and 109.92 of the Revised 51844
Code; 51845

(d) Adjudication or diversion of persons charged with 51846
delinquent acts; 51847

(e) Custodial treatment of delinquent children; 51848

(f) Institutional and noninstitutional rehabilitation of 51849
delinquent children. 51850

(B) There is hereby created the department of youth services. 51851
The governor shall appoint the director of the department with the 51852
advice and consent of the senate. The director shall hold office 51853
during the term of the appointing governor but subject to removal 51854
at the pleasure of the governor. Except as otherwise authorized in 51855
section 108.05 of the Revised Code, the director shall devote the 51856
director's entire time to the duties of the director's office and 51857
shall hold no other office or position of trust or profit during 51858

the director's term of office.

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The director is the chief executive and administrative officer of the department and has all the powers of a department head set forth in Chapter 121. of the Revised Code. The director may adopt rules for the government of the department, the conduct of its officers and employees, the performance of its business, and the custody, use, and preservation of the department's records, papers, books, documents, and property. The director shall be an appointing authority within the meaning of Chapter 124. of the Revised Code. Whenever this or any other chapter or section of the Revised Code imposes a duty on or requires an action of the department, the duty or action shall be performed by the director or, upon the director's order, in the name of the department.

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Sec. 5139.36. (A) In accordance with this section and the rules adopted under it and from funds appropriated to the department of youth services for the purposes of this section, the department shall make grants that provide financial resources to operate community corrections facilities for felony delinquents.

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(B)(1) Each community corrections facility that intends to seek a grant under this section shall file an application with the department of youth services at the time and in accordance with the procedures that the department shall establish by rules adopted in accordance with Chapter 119. of the Revised Code. In addition to other items required to be included in the application, a plan that satisfies both of the following shall be included:

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(a) It reduces the number of felony delinquents committed to the department from the county or counties associated with the community corrections facility.

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(b) It ensures equal access for minority felony delinquents 51889
to the programs and services for which a potential grant would be 51890
used. 51891

(2) The department of youth services shall review each 51892
application submitted pursuant to division (B)(1) of this section 51893
to determine whether the plan described in that division, the 51894
community corrections facility, and the application comply with 51895
this section and the rules adopted under it. 51896

(C) To be eligible for a grant under this section and for 51897
continued receipt of moneys comprising a grant under this section, 51898
a community corrections facility shall satisfy at least all of the 51899
following requirements: 51900

(1) Be constructed, reconstructed, improved, or financed by 51901
the Ohio building authority pursuant to section 307.021 of the 51902
Revised Code and Chapter 152. of the Revised Code for the use of 51903
the department of youth services and be designated as a community 51904
corrections facility; 51905

(2) Have written standardized criteria governing the types of 51906
felony delinquents that are eligible for the programs and services 51907
provided by the facility; 51908

(3) Have a written standardized intake screening process and 51909
an intake committee that at least performs both of the following 51910
tasks: 51911

(a) Screens all eligible felony delinquents who are being 51912
considered for admission to the facility in lieu of commitment to 51913
the department; 51914

(b) Notifies, within ten days after the date of the referral 51915
of a felony delinquent to the facility, the committing court 51916
whether the felony delinquent will be admitted to the facility. 51917

(4) Comply with all applicable fiscal and program rules that 51918

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 51950
accordance with sections 5139.41 to 5139.43 of the Revised Code. 51951

(F) If the board or other governing body of a community 51952
corrections facility establishes an advisory board, the board or 51953
other governing authority of the community corrections facility 51954
shall reimburse the members of the advisory board for their actual 51955
and necessary expenses incurred in the performance of their 51956
official duties on the advisory board. The members of advisory 51957
boards shall serve without compensation. 51958

Sec. 5153.16. (A) Except as provided in section 2151.422 of 51959
the Revised Code, in accordance with rules of the department of 51960
job and family services, and on behalf of children in the county 51961
whom the public children services agency considers to be in need 51962
of public care or protective services, the public children 51963
services agency shall do all of the following: 51964

(1) Make an investigation concerning any child alleged to be 51965
an abused, neglected, or dependent child; 51966

(2) Enter into agreements with the parent, guardian, or other 51967
person having legal custody of any child, or with the department 51968
of job and family services, department of mental health, 51969
department of mental retardation and developmental disabilities, 51970
other department, any certified organization within or outside the 51971
county, or any agency or institution outside the state, having 51972
legal custody of any child, with respect to the custody, care, or 51973
placement of any child, or with respect to any matter, in the 51974
interests of the child, provided the permanent custody of a child 51975
shall not be transferred by a parent to the public children 51976
services agency without the consent of the juvenile court; 51977

(3) Accept custody of children committed to the public 51978
children services agency by a court exercising juvenile 51979

jurisdiction;	51980
(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;	51981 51982 51983 51984
(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;	51985 51986 51987
(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;	51988 51989 51990 51991 51992 51993
(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;	51994 51995 51996
(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;	51997 51998 51999
(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;	52000 52001 52002 52003 52004 52005 52006 52007
(10) Acquire and operate a county children's home, establish, maintain, and operate a receiving home for the temporary care of	52008 52009

children, or procure certified foster homes for this purpose; 52010

(11) Enter into an agreement with the trustees of any 52011
district children's home, respecting the operation of the district 52012
children's home in cooperation with the other county boards in the 52013
district; 52014

(12) Cooperate with, make its services available to, and act 52015
as the agent of persons, courts, the department of job and family 52016
services, the department of health, and other organizations within 52017
and outside the state, in matters relating to the welfare of 52018
children, except that the public children services agency shall 52019
not be required to provide supervision of or other services 52020
related to the exercise of parenting time rights granted pursuant 52021
to section 3109.051 or 3109.12 of the Revised Code or 52022
companionship or visitation rights granted pursuant to section 52023
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 52024
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 52025
a common pleas court, pursuant to division (E)(6) of section 52026
3113.31 of the Revised Code, requires the provision of supervision 52027
or other services related to the exercise of the parenting time 52028
rights or companionship or visitation rights; 52029

(13) Make investigations at the request of any superintendent 52030
of schools in the county or the principal of any school concerning 52031
the application of any child adjudicated to be an abused, 52032
neglected, or dependent child for release from school, where such 52033
service is not provided through a school attendance department; 52034

(14) Administer funds provided under Title IV-E of the 52035
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 52036
amended, in accordance with rules adopted under section 5101.141 52037
of the Revised Code; 52038

(15) In addition to administering Title IV-E adoption 52039
assistance funds, enter into agreements to make adoption 52040

- assistance payments under section 5153.163 of the Revised Code; 52041
- (16) Implement a system of risk assessment, in accordance 52042
with rules adopted by the director of job and family services, to 52043
assist the public children services agency in determining the risk 52044
of abuse or neglect to a child; 52045
- (17) Enter into a plan of cooperation with the board of 52046
county commissioners under section 307.983 of the Revised Code and 52047
comply with each fiscal agreement the board enters into under 52048
section 307.98 of the Revised Code that include family services 52049
duties of public children services agencies and contracts the 52050
board enters into under sections 307.981 and 307.982 of the 52051
Revised Code that affect the public children services agency; 52052
- (18) Make reasonable efforts to prevent the removal of an 52053
alleged or adjudicated abused, neglected, or dependent child from 52054
the child's home, eliminate the continued removal of the child 52055
from the child's home, or make it possible for the child to return 52056
home safely, except that reasonable efforts of that nature are not 52057
required when a court has made a determination under division 52058
(A)(2) of section 2151.419 of the Revised Code; 52059
- (19) Make reasonable efforts to place the child in a timely 52060
manner in accordance with the permanency plan approved under 52061
division (E) of section 2151.417 of the Revised Code and to 52062
complete whatever steps are necessary to finalize the permanent 52063
placement of the child; 52064
- (20) Administer a Title IV-A program identified under 52065
division (A)(3)(c) or ~~(d)~~(e) of section 5101.80 of the Revised 52066
Code that the department of job and family services provides for 52067
the public children services agency to administer under the 52068
department's supervision pursuant to section 5101.801 of the 52069
Revised Code; 52070
- (21) Administer the kinship caregiver subsidy program created 52071

under section 5101.802 of the Revised Code under the supervision 52072
of the director of job and family services; 52073

(22) Provide independent living services pursuant to sections 52074
2151.81 to 2151.84 of the Revised Code. 52075

(B) The public children services agency shall use the system 52076
implemented pursuant to division (B)(16) of this section in 52077
connection with an investigation undertaken pursuant to division 52078
(F)(1) of section 2151.421 of the Revised Code and may use the 52079
system at any other time the agency is involved with any child 52080
when the agency determines that risk assessment is necessary. 52081

(C) Except as provided in section 2151.422 of the Revised 52082
Code, in accordance with rules of the director of job and family 52083
services, and on behalf of children in the county whom the public 52084
children services agency considers to be in need of public care or 52085
protective services, the public children services agency may do 52086
the following: 52087

(1) Provide or find, with other child serving systems, 52088
specialized foster care for the care of children in a specialized 52089
foster home, as defined in section 5103.02 of the Revised Code, 52090
certified under section 5103.03 of the Revised Code; 52091

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 52092
this section, contract with the following for the purpose of 52093
assisting the agency with its duties: 52094

(i) County departments of job and family services; 52095

(ii) Boards of alcohol, drug addiction, and mental health 52096
services; 52097

(iii) County boards of mental retardation and developmental 52098
disabilities; 52099

(iv) Regional councils of political subdivisions established 52100
under Chapter 167. of the Revised Code; 52101

(v) Private and government providers of services;	52102
(vi) Managed care organizations and prepaid health plans.	52103
(b) A public children services agency contract under division	52104
(C)(2)(a) of this section regarding the agency's duties under	52105
section 2151.421 of the Revised Code may not provide for the	52106
entity under contract with the agency to perform any service not	52107
authorized by the department's rules.	52108
(c) Only a county children services board appointed under	52109
section 5153.03 of the Revised Code that is a public children	52110
services agency may contract under division (C)(2)(a) of this	52111
section. If an entity specified in division (B) or (C) of section	52112
5153.02 of the Revised Code is the public children services agency	52113
for a county, the board of county commissioners may enter into	52114
contracts pursuant to section 307.982 of the Revised Code	52115
regarding the agency's duties.	52116
Sec. 5502.01. (A) The department of public safety shall	52117
administer and enforce the laws relating to the registration,	52118
licensing, sale, and operation of motor vehicles and the laws	52119
pertaining to the licensing of drivers of motor vehicles.	52120
The department shall compile, analyze, and publish statistics	52121
relative to motor vehicle accidents and the causes of them,	52122
prepare and conduct educational programs for the purpose of	52123
promoting safety in the operation of motor vehicles on the	52124
highways, and conduct research and studies for the purpose of	52125
promoting safety on the highways of this state.	52126
(B) The department shall administer the laws and rules	52127
relative to trauma and emergency medical services specified in	52128
Chapter 4765. of the Revised Code.	52129
(C) The department shall administer and enforce the laws	52130
contained in Chapters 4301. and 4303. of the Revised Code and	52131

enforce the rules and orders of the liquor control commission 52132
pertaining to retail liquor permit holders. 52133

(D) The department shall administer the laws governing the 52134
state emergency management agency and shall enforce all additional 52135
duties and responsibilities as prescribed in the Revised Code 52136
related to emergency management services. 52137

(E) The department shall conduct investigations pursuant to 52138
Chapter 5101. of the Revised Code in support of the duty of the 52139
department of job and family services to administer food stamp 52140
programs throughout this state. The department of public safety 52141
shall conduct investigations necessary to protect the state's 52142
property rights and interests in the food stamp program. 52143

(F) The department of public safety shall enforce compliance 52144
with orders and rules of the public utilities commission and 52145
applicable laws in accordance with Chapters 4919., 4921., and 52146
4923. of the Revised Code regarding commercial motor vehicle 52147
transportation safety, economic, and hazardous materials 52148
requirements. 52149

(G) Notwithstanding Chapter 4117. of the Revised Code, the 52150
department of public safety may establish requirements for its 52151
enforcement personnel, including its enforcement agents described 52152
in section 5502.14 of the Revised Code, that include standards of 52153
conduct, work rules and procedures, and criteria for eligibility 52154
as law enforcement personnel. 52155

(H) The department shall administer, maintain, and operate 52156
the Ohio criminal justice network. The Ohio criminal justice 52157
network shall be a computer network that supports state and local 52158
criminal justice activities. The network shall be an electronic 52159
repository for various data, which may include arrest warrants, 52160
notices of persons wanted by law enforcement agencies, criminal 52161
records, prison inmate records, stolen vehicle records, vehicle 52162

operator's licenses, and vehicle registrations and titles. 52163

(I) The department shall coordinate all homeland security 52164
activities of all state agencies and shall be a liaison between 52165
state agencies and local entities for those activities and related 52166
purposes. 52167

(J) Beginning July 1, 2004, the department shall administer 52168
and enforce the laws relative to private investigators and 52169
security service providers specified in Chapter 4749. of the 52170
Revised Code. 52171

(K) The department shall administer criminal justice services 52172
in accordance with sections 5502.61 to 5502.66 of the Revised 52173
Code. 52174

Sec. 5502.03. (A) There is hereby created in the department 52175
of public safety a division of homeland security. It is the intent 52176
of the general assembly that the creation of the division of 52177
homeland security of the department of public safety by this 52178
amendment does not result in an increase of funding appropriated 52179
to the department. 52180

(B)(1) The division shall coordinate all homeland security 52181
activities of all state agencies and shall be the liaison between 52182
state agencies and local entities for the purposes of 52183
communicating homeland security funding and policy initiatives. 52184

(2) The division and the department shall distribute any 52185
homeland security funds on a county basis and shall not distribute 52186
those funds on a regional basis. 52187

(C) The director of public safety shall appoint an executive 52188
director, who shall be head of the division of homeland security 52189
and who regularly shall advise the governor and the director on 52190
matters pertaining to homeland security. The executive director 52191
shall serve at the pleasure of the director of public safety. To 52192

carry out the duties assigned under this section, the executive 52193
director, subject to the direction and control of the director of 52194
public safety, may appoint and maintain necessary staff and may 52195
enter into any necessary agreements. 52196

(D) Except as otherwise provided by law, nothing in this 52197
section shall be construed to give the director of public safety 52198
or the executive director of the division of homeland security 52199
authority over the incident management structure or 52200
responsibilities of local emergency response personnel. 52201

Sec. ~~181.51~~ 5502.61. As used in sections ~~181.51~~ 5502.61 to 52202
~~181.56~~ 5502.66 of the Revised Code: 52203

(A) "Federal criminal justice acts" means any federal law 52204
that authorizes financial assistance and other forms of assistance 52205
to be given by the federal government to the states to be used for 52206
the improvement of the criminal and juvenile justice systems of 52207
the states. 52208

(B)(1) "Criminal justice system" includes all of the 52209
functions of the following: 52210

(a) The state highway patrol, county sheriff offices, 52211
municipal and township police departments, and all other law 52212
enforcement agencies; 52213

(b) The courts of appeals, courts of common pleas, municipal 52214
courts, county courts, and mayor's courts, when dealing with 52215
criminal cases; 52216

(c) The prosecuting attorneys, city directors of law, village 52217
solicitors, and other prosecuting authorities when prosecuting or 52218
otherwise handling criminal cases and the county and joint county 52219
public defenders and other public defender agencies or offices; 52220

(d) The department of rehabilitation and correction, 52221
probation departments, county and municipal jails and workhouses, 52222

and any other department, agency, or facility that is concerned 52223
with the rehabilitation or correction of criminal offenders; 52224

(e) Any public or private agency whose purposes include the 52225
prevention of crime or the diversion, adjudication, detention, or 52226
rehabilitation of criminal offenders; 52227

(f) Any public or private agency, the purposes of which 52228
include assistance to crime victims or witnesses. 52229

(2) The inclusion of any public or private agency, the 52230
purposes of which include assistance to crime victims or 52231
witnesses, as part of the criminal justice system pursuant to 52232
division (B)(1) of this section does not limit, and shall not be 52233
construed as limiting, the discretion or authority of the attorney 52234
general with respect to crime victim assistance and criminal 52235
justice programs. 52236

(C) "Juvenile justice system" includes all of the functions 52237
of the juvenile courts, the department of youth services, any 52238
public or private agency whose purposes include the prevention of 52239
delinquency or the diversion, adjudication, detention, or 52240
rehabilitation of delinquent children, and any of the functions of 52241
the criminal justice system that are applicable to children. 52242

(D) "Comprehensive plan" means a document that coordinates, 52243
evaluates, and otherwise assists, on an annual or multi-year 52244
basis, any of the functions of the criminal and juvenile justice 52245
systems of the state or a specified area of the state, that 52246
conforms to the priorities of the state with respect to criminal 52247
and juvenile justice systems, and that conforms with the 52248
requirements of all federal criminal justice acts. These functions 52249
may include, but are not limited to, any of the following: 52250

(1) Crime and delinquency prevention; 52251

(2) Identification, detection, apprehension, and detention of 52252

persons charged with criminal offenses or delinquent acts;	52253
(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;	52254 52255 52256 52257
(4) Adjudication or diversion of persons charged with criminal offenses or delinquent acts;	52258 52259
(5) Custodial treatment of criminal offenders, delinquent children, or both;	52260 52261
(6) Institutional and noninstitutional rehabilitation of criminal offenders, delinquent children, or both.	52262 52263
(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.	52264 52265 52266
(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.	52267 52268 52269
(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.	52270 52271 52272
(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.	52273 52274 52275 52276 52277 52278
(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.	52279 52280 52281

~~Sec. 181.52~~ 5502.62. (A) There is hereby created an ~~office~~ in 52282
the department of public safety a division of criminal justice 52283
services. The ~~governor~~ director of public safety, with the 52284
concurrence of the governor, shall appoint a an executive director 52285
of the ~~office,~~ and the ~~director may appoint,~~ within the ~~office,~~ 52286
any ~~professional and technical personnel and other employees that~~ 52287
~~are necessary to enable the office to comply with sections 181.51~~ 52288
~~to 181.56 of the Revised Code~~ division of criminal justice 52289
services. The executive director shall be the head of the 52290
division. The executive director shall serve at the pleasure of 52291
the director of public safety. To carry out the duties assigned 52292
under this section and to comply with sections 5502.63 to 5502.66 52293
of the Revised Code, the executive director, subject to the 52294
direction and control of the director of public safety, may 52295
appoint and maintain any necessary staff and may enter into any 52296
necessary contracts and other agreements. The executive director 52297
and the assistant executive director of the ~~office~~ division, and 52298
all professional and technical personnel employed within the 52299
~~office~~ division who are not public employees as defined in section 52300
4117.01 of the Revised Code, shall be in the unclassified civil 52301
service, and all other persons employed within the office shall be 52302
in the classified civil service. ~~The director may enter into any~~ 52303
~~contracts, except contracts governed by Chapter 4117. of the~~ 52304
~~Revised Code, that are necessary for the operation of the office.~~ 52305

(B) Subject to division (E) of this section and subject to 52306
divisions (D) to (F) of section 5120.09 of the Revised Code 52307
insofar as those divisions relate to federal criminal justice acts 52308
that the governor requires the department of rehabilitation and 52309
correction to administer, the ~~office~~ division of criminal justice 52310
services shall do all of the following: 52311

(1) Serve as the state criminal justice services agency and 52312

perform criminal justice system planning in the state, including 52313
any planning that is required by any federal law; 52314

(2) Collect, analyze, and correlate information and data 52315
concerning the criminal justice system in the state; 52316

(3) Cooperate with and provide technical assistance to state 52317
departments, administrative planning districts, metropolitan 52318
county criminal justice services agencies, criminal justice 52319
coordinating councils, agencies, offices, and departments of the 52320
criminal justice system in the state, and other appropriate 52321
organizations and persons; 52322

(4) Encourage and assist agencies, offices, and departments 52323
of the criminal justice system in the state and other appropriate 52324
organizations and persons to solve problems that relate to the 52325
duties of the ~~office~~ division; 52326

(5) Administer within the state any federal criminal justice 52327
acts that the governor requires it to administer; 52328

(6) Administer funds received under the "Family Violence 52329
Prevention and Services Act," 98 Stat. 1757 (1984), 42 U.S.C.A. 52330
10401, as amended, with all powers necessary for the adequate 52331
administration of those funds, including the authority to 52332
establish a family violence prevention and services program. 52333

(7) Implement the state comprehensive plans; 52334

(8) Audit grant activities of agencies, offices, 52335
organizations, and persons that are financed in whole or in part 52336
by funds granted through the ~~office~~ division; 52337

(9) Monitor or evaluate the performance of criminal justice 52338
system projects and programs in the state that are financed in 52339
whole or in part by funds granted through the ~~office~~ division; 52340

(10) Apply for, allocate, disburse, and account for grants 52341
that are made available pursuant to federal criminal justice acts, 52342

or made available from other federal, state, or private sources, 52343
to improve the criminal justice system in the state. All money 52344
from such federal grants shall, if the terms under which the money 52345
is received require that the money be deposited into an 52346
interest-bearing fund or account, be deposited in the state 52347
treasury to the credit of the federal program purposes fund, which 52348
is hereby created. All investment earnings of the fund shall be 52349
credited to the fund. 52350

(11) Contract with federal, state, and local agencies, 52351
foundations, corporations, businesses, and persons when necessary 52352
to carry out the duties of the ~~office~~ division; 52353

(12) Oversee the activities of metropolitan county criminal 52354
justice services agencies, administrative planning districts, and 52355
criminal justice coordinating councils in the state; 52356

(13) Advise the director of public safety, general assembly, 52357
and governor on legislation and other significant matters that 52358
pertain to the improvement and reform of criminal and juvenile 52359
justice systems in the state; 52360

(14) Prepare and recommend legislation to the director of 52361
public safety, general assembly, and governor for the improvement 52362
of the criminal and juvenile justice systems in the state; 52363

(15) Assist, advise, and make any reports that are requested 52364
or required by the governor, director of public safety, attorney 52365
general, or general assembly; 52366

(16) ~~Adopt~~ Subject to the approval of the director of public 52367
safety, adopt rules pursuant to Chapter 119. of the Revised Code. 52368

(C) Upon the request of the director of public safety or 52369
governor, the ~~office~~ division of criminal justice services may do 52370
any of the following: 52371

(1) Collect, analyze, or correlate information and data 52372

concerning the juvenile justice system in the state; 52373

(2) Cooperate with and provide technical assistance to state 52374
departments, administrative planning districts, metropolitan 52375
county criminal justice service agencies, criminal justice 52376
coordinating councils, agency offices, and the departments of the 52377
juvenile justice system in the state and other appropriate 52378
organizations and persons; 52379

(3) Encourage and assist agencies, offices, and departments 52380
of the juvenile justice system in the state and other appropriate 52381
organizations and persons to solve problems that relate to the 52382
duties of the ~~office~~ division. 52383

(D) Divisions (B) and (C) of this section do not limit the 52384
discretion or authority of the attorney general with respect to 52385
crime victim assistance and criminal justice programs. 52386

(E) Nothing in this section is intended to diminish or alter 52387
the status of the office of the attorney general as a criminal 52388
justice services agency. 52389

Sec. ~~181.251~~ 5502.63. The ~~office~~ division of criminal justice 52390
services in the department of public safety shall prepare a poster 52391
and a brochure that describe safe firearms practices. The poster 52392
and brochure shall contain typeface that is at least one-quarter 52393
inch tall. The ~~office~~ division shall furnish copies of the poster 52394
and brochure free of charge to each federally licensed firearms 52395
dealer in this state. 52396

As used in this section, "federally licensed firearms dealer" 52397
means an importer, manufacturer, or dealer having a license to 52398
deal in destructive devices or their ammunition, issued and in 52399
effect pursuant to the federal "Gun Control Act of 1968," 82 Stat. 52400
1213, 18 U.S.C. 923 et seq., and any amendments or additions to 52401
that act or reenactments of that act. 52402

Sec. ~~181.54~~ 5502.64. (A) A county may enter into an agreement 52403
with the largest city within the county to establish a 52404
metropolitan county criminal justice services agency, if the 52405
population of the county exceeds five hundred thousand or the 52406
population of the city exceeds two hundred fifty thousand. 52407

(B) A metropolitan county criminal justice services agency 52408
shall do all of the following: 52409

(1) Accomplish criminal and juvenile justice systems planning 52410
within its services area; 52411

(2) Collect, analyze, and correlate information and data 52412
concerning the criminal and juvenile justice systems within its 52413
services area; 52414

(3) Cooperate with and provide technical assistance to all 52415
criminal and juvenile justice agencies and systems and other 52416
appropriate organizations and persons within its services area; 52417

(4) Encourage and assist agencies of the criminal and 52418
juvenile justice systems and other appropriate organizations and 52419
persons to solve problems that relate to its duties; 52420

(5) Administer within its services area any federal criminal 52421
justice acts or juvenile justice acts that the ~~office~~ division of 52422
criminal justice services pursuant to section 5139.11 of the 52423
Revised Code or the department of youth services administers 52424
within the state; 52425

(6) Implement the comprehensive plans for its services area; 52426

(7) Monitor or evaluate, within its services area, the 52427
performance of the criminal and juvenile justice systems projects 52428
and programs that are financed in whole or in part by funds 52429
granted through it; 52430

(8) Apply for, allocate, and disburse grants that are made 52431

available pursuant to any federal criminal justice acts, or 52432
pursuant to any other federal, state, or private sources for the 52433
purpose of improving the criminal and juvenile justice systems; 52434

(9) Contract with federal, state, and local agencies, 52435
foundations, corporations, and other businesses or persons to 52436
carry out the duties of the agency. 52437

Sec. ~~181.55~~ 5502.65. (A)(1) When funds are available for 52438
criminal justice purposes pursuant to section ~~181.54~~ 5502.64 of 52439
the Revised Code, the ~~office~~ division of criminal justice services 52440
shall provide funds to metropolitan county criminal justice 52441
services agencies for the purpose of developing, coordinating, 52442
evaluating, and implementing comprehensive plans within their 52443
respective counties. The ~~office~~ division of criminal justice 52444
services shall provide funds to an agency only if it complies with 52445
the conditions of division (B) of this section. 52446

(2) When funds are available for juvenile justice purposes 52447
pursuant to section ~~181.54~~ 5502.64 of the Revised Code, the 52448
department of youth services shall provide funds to metropolitan 52449
county criminal justice services agencies for the purpose of 52450
developing, coordinating, evaluating, and implementing 52451
comprehensive plans within their respective counties. The 52452
department shall provide funds to an agency only if it complies 52453
with the conditions of division (B) of this section. 52454

(B) A metropolitan county criminal justice services agency 52455
shall do all of the following: 52456

(1) Submit, in a form that is acceptable to the ~~office~~ 52457
division of criminal justice services or the department of youth 52458
services pursuant to section 5139.01 of the Revised Code, a 52459
comprehensive plan for the county; 52460

(2) Establish a metropolitan county criminal justice services 52461

supervisory board whose members shall include a majority of the 52462
local elected officials in the county and representatives from law 52463
enforcement agencies, courts, prosecuting authorities, public 52464
defender agencies, rehabilitation and correction agencies, 52465
community organizations, juvenile justice services agencies, 52466
professionals, and private citizens in the county, and that shall 52467
have the authority set forth in division (C) of this section; 52468

(3) Organize in the manner provided in sections 167.01 to 52469
167.03, 302.21 to 302.24, or 713.21 to 713.27 of the Revised Code, 52470
unless the board created pursuant to division (B)(2) of this 52471
section organizes pursuant to these sections. 52472

(C) A metropolitan county criminal justice services 52473
supervisory board shall do all of the following: 52474

(1) Exercise leadership in improving the quality of the 52475
criminal and juvenile justice systems in the county; 52476

(2) Review, approve, and maintain general oversight of the 52477
comprehensive plans for the county and the implementation of the 52478
plans; 52479

(3) Review and comment on the overall needs and 52480
accomplishments of the criminal and juvenile justice systems in 52481
the county; 52482

(4) Establish, as required to comply with this division, task 52483
forces, ad hoc committees, and other committees, whose members 52484
shall be appointed by the chairperson of the board; 52485

(5) Establish any rules that the board considers necessary 52486
and that are consistent with the federal criminal justice acts and 52487
section ~~181.52~~ 5502.62 of the Revised Code. 52488

Sec. ~~181.56~~ 5502.66. (A) In counties in which a metropolitan 52489
county criminal justice services agency does not exist, the ~~office~~ 52490
division of criminal justice services shall discharge the ~~office's~~ 52491

division's duties that the ~~governor~~ director of public safety 52492
requires it to administer by establishing administrative planning 52493
districts for criminal justice programs. An administrative 52494
planning district shall contain a group of contiguous counties in 52495
which no county has a metropolitan county criminal justice 52496
services agency. 52497

(B) In counties in which a metropolitan county criminal 52498
justice services agency does not exist, the department of youth 52499
services shall discharge pursuant to section 5139.11 of the 52500
Revised Code the department's duty by establishing administrative 52501
planning districts for juvenile justice programs. 52502

(C) All administrative planning districts shall contain a 52503
group of contiguous counties in which no county has a metropolitan 52504
county criminal justice services agency. 52505

(D) Any county or any combination of contiguous counties 52506
within an administrative planning district may form a criminal 52507
justice coordinating council or a juvenile justice coordinating 52508
council for its respective programs, if the county or the group of 52509
counties has a total population in excess of two hundred fifty 52510
thousand. The council shall comply with the conditions set forth 52511
in divisions (B) and (C) of section ~~181.55~~ 5502.65 of the Revised 52512
Code, and exercise within its jurisdiction the powers and duties 52513
set forth in division (B) of section ~~181.54~~ 5502.64 of the Revised 52514
Code. 52515

Sec. 5517.02. (A) Before undertaking the construction, 52516
reconstruction by widening or resurfacing, or improvement of a 52517
state highway, or a bridge or culvert thereon, or the installation 52518
of a traffic control signal on a state highway, the director of 52519
transportation shall make an estimate of the cost of the work 52520
using the force account project assessment form developed by the 52521
auditor of state under section 117.16 of the Revised Code. In 52522

constructing, or reconstructing by widening or resurfacing, 52523
improving, maintaining, and repairing state highways, and the 52524
bridges and culverts thereon, and in installing, maintaining, and 52525
repairing traffic control signals on state highways, the director, 52526
except as provided in division (B) of this section, shall proceed 52527
by contract let to the lowest competent and responsible bidder, 52528
after advertisement as provided in section 5525.01 of the Revised 52529
Code. 52530

(B)(1) Where the work contemplated is the construction of a 52531
bridge or culvert, or the installation of a traffic control 52532
signal, estimated to cost not more than fifty thousand dollars or 52533
the amount adjusted under section 117.162 of the Revised Code, the 52534
director may proceed by employing labor, purchasing materials, and 52535
furnishing equipment. 52536

(2) The director may also proceed with maintenance or repair 52537
work by employing labor, purchasing materials, and furnishing 52538
equipment, provided the total estimated cost of the completed 52539
operation, or series of connected operations, does not exceed 52540
twenty-five thousand dollars or the amount adjusted under section 52541
117.162 of the Revised Code per mile of highway, exclusive of 52542
structures and traffic control signals, or fifty thousand dollars 52543
or the amount adjusted under section 117.162 of the Revised Code 52544
for any single structure or traffic control signal. 52545

(3) The director may proceed by furnishing equipment, 52546
purchasing materials, and employing labor in the erection of 52547
temporary bridges or the making of temporary repairs to a highway 52548
or bridge rendered necessary by flood, landslide, or other 52549
extraordinary emergency. If the director determines inability to 52550
complete such emergency work by force account, the director may 52551
contract for any part of the work, with or without advertising for 52552
bids, as the director considers for the best interest of the 52553
department of transportation. 52554

Sec. 5540.01. As used in this chapter: 52555

(A) "Transportation improvement district" or "district" means 52556
a transportation improvement district designated pursuant to 52557
section 5540.02 of the Revised Code. 52558

(B) "Governmental agency" means a department, division, or 52559
other unit of state government; a county, township, or municipal 52560
corporation or other political subdivision; a regional transit 52561
authority or regional transit commission created pursuant to 52562
Chapter 306. of the Revised Code; a port authority created 52563
pursuant to Chapter 4582. of the Revised Code; and the United 52564
States or any agency thereof. 52565

(C) "Project" means a street, highway, or other 52566
transportation project constructed or improved under this chapter 52567
and includes all bridges, tunnels, overpasses, underpasses, 52568
interchanges, approaches, those portions of connecting streets or 52569
highways that serve interchanges and are determined by the 52570
district to be necessary for the safe merging of traffic between 52571
the project and those streets or highways, service facilities, and 52572
administration, storage, and other buildings, property, and 52573
facilities, that the district considers necessary for the 52574
operation of the project, together with all property and rights 52575
that must be acquired by the district for the construction, 52576
maintenance, or operation of the project. 52577

(D) "Cost," as applied to the construction of a project, 52578
includes the cost of construction, including bridges over or under 52579
existing highways and railroads, acquisition of all property 52580
acquired by the district for such construction, demolishing or 52581
removing any buildings or structures on land so acquired, 52582
including the cost of acquiring any lands to which such buildings 52583
or structures may be moved, site clearance, improvement, and 52584
preparation, diverting streets or highways, interchanges with 52585

streets or highways, access roads to private property, including 52586
the cost of land or easements therefor, all machinery, 52587
furnishings, and equipment, communications facilities, financing 52588
expenses, interest prior to and during construction and for one 52589
year after completion of construction, traffic estimates, 52590
indemnity and surety bonds and premiums on insurance, and 52591
guarantees, engineering, feasibility studies, and legal expenses, 52592
plans, specifications, surveys, estimates of cost and revenues, 52593
other expenses necessary or incidental to determining the 52594
feasibility or practicability of constructing a project, and such 52595
other expense as may be necessary or incident to the construction 52596
of the project and the financing of such construction. Any 52597
obligation or expense incurred by any governmental agency or 52598
person for surveys, borings, preparation of plans and 52599
specifications, and other engineering services, or any other cost 52600
described above, in connection with the construction of a project 52601
may be regarded as part of the cost of the project and reimbursed 52602
from revenues, taxes, or the proceeds of bonds as authorized by 52603
this chapter. 52604

(E) "Owner" includes any person having any title or interest 52605
in any property authorized to be acquired by a district under this 52606
chapter. 52607

(F) "Revenues" means all moneys received by a district with 52608
respect to the lease, sublease, or sale, including installment 52609
sale, conditional sale, or sale under a lease-purchase agreement, 52610
of a project, all moneys received by a district under an agreement 52611
pursuant to section 5540.032 of the Revised Code, any gift or 52612
grant received with respect to a project, tolls, special 52613
assessments levied by the district, proceeds of bonds to the 52614
extent the use thereof for payment of principal or of premium, if 52615
any, or interest on the bonds is authorized by the district, 52616
proceeds from any insurance, condemnation, or guaranty pertaining 52617

to a project or property mortgaged to secure bonds or pertaining 52618
to the financing of a project, and income and profit from the 52619
investment of the proceeds of bonds or of any revenues. 52620

(G) "Street or highway" has the same meaning as in section 52621
4511.01 of the Revised Code. 52622

(H) "Financing expenses" means all costs and expenses 52623
relating to the authorization, issuance, sale, delivery, 52624
authentication, deposit, custody, clearing, registration, 52625
transfer, exchange, fractionalization, replacement, payment, and 52626
servicing of bonds including, without limitation, costs and 52627
expenses for or relating to publication and printing, postage, 52628
delivery, preliminary and final official statements, offering 52629
circulars, and informational statements, travel and 52630
transportation, underwriters, placement agents, investment 52631
bankers, paying agents, registrars, authenticating agents, 52632
remarketing agents, custodians, clearing agencies or corporations, 52633
securities depositories, financial advisory services, 52634
certifications, audits, federal or state regulatory agencies, 52635
accounting and computation services, legal services and obtaining 52636
approving legal opinions and other legal opinions, credit ratings, 52637
redemption premiums, and credit enhancement facilities. 52638

(I) "Bond proceedings" means the resolutions, trust 52639
agreements, certifications, notices, sale proceedings, leases, 52640
lease-purchase agreements, assignments, credit enhancement 52641
facility agreements, and other agreements, instruments, and 52642
documents, as amended and supplemented, or any one or more of 52643
combination thereof, authorizing, or authorizing or providing for 52644
the terms and conditions applicable to, or providing for the 52645
security or sale or award or liquidity of, bonds, and includes the 52646
provisions set forth or incorporated in those bonds and bond 52647
proceedings. 52648

(J) "Bond service charges" means principal, including any 52649

mandatory sinking fund or mandatory redemption requirements for 52650
retirement of bonds, and interest and any redemption premium 52651
payable on bonds, as those payments come due and are payable to 52652
the bondholder or to a person making payment under a credit 52653
enhancement facility of those bond service charges to a 52654
bondholder. 52655

(K) "Bond service fund" means the applicable fund created by 52656
the bond proceedings for and pledged to the payment of bond 52657
service charges on bonds provided for by those proceedings, 52658
including all moneys and investments, and earnings from 52659
investments, credited and to be credited to that fund as provided 52660
in the bond proceedings. 52661

(L) "Bonds" means bonds, notes, including notes anticipating 52662
bonds or other notes, commercial paper, certificates of 52663
participation, or other evidences of obligation, including any 52664
interest coupons pertaining thereto, issued pursuant to this 52665
chapter. 52666

(M) "Net revenues" means revenues lawfully available to pay 52667
both current operating expenses of a district and bond service 52668
charges in any fiscal year or other specified period, less current 52669
operating expenses of the district and any amount necessary to 52670
maintain a working capital reserve for that period. 52671

(N) "Pledged revenues" means net revenues, moneys and 52672
investments, and earnings on those investments, in the applicable 52673
bond service fund and any other special funds, and the proceeds of 52674
any bonds issued for the purpose of refunding prior bonds, all as 52675
lawfully available and by resolution of the district committed for 52676
application as pledged revenues to the payment of bond service 52677
charges on particular issues of bonds. 52678

(O) "Special funds" means the applicable bond service fund 52679
and any accounts and subaccounts in that fund, any other funds or 52680

accounts permitted by and established under, and identified as a 52681
special fund or special account in, the bond proceedings, 52682
including any special fund or account established for purposes of 52683
rebate or other requirements under federal income tax laws. 52684

(P) "Credit enhancement facilities" means letters of credit, 52685
lines of credit, standby, contingent, or firm securities purchase 52686
agreements, insurance, or surety arrangements, guarantees, and 52687
other arrangements that provide for direct or contingent payment 52688
of bond service charges, for security or additional security in 52689
the event of nonpayment or default in respect of bonds, or for 52690
making payment of bond service charges and at the option and on 52691
demand of bondholders or at the option of the district or upon 52692
certain conditions occurring under put or similar arrangements, or 52693
for otherwise supporting the credit or liquidity of the bonds, and 52694
includes credit, reimbursement, marketing, remarketing, indexing, 52695
carrying, interest rate hedge as defined in section 133.01 of the 52696
Revised Code, and subrogation agreements, and other agreements and 52697
arrangements for payment and reimbursement of the person providing 52698
the credit enhancement facility and the security for that payment 52699
and reimbursement. 52700

(Q) "Refund" means to fund and retire outstanding bonds, 52701
including advance refunding with or without payment or redemption 52702
prior to stated maturity. 52703

(R) "Property" includes interests in property. 52704

(S) "Administrative agent," "agent," "commercial paper," 52705
"floating rate interest structure," "indexing agent," "interest 52706
rate period," "put arrangement," and "remarketing agent" have the 52707
same meanings as in section 9.98 of the Revised Code. 52708

(T) "Outstanding" as applied to bonds means outstanding in 52709
accordance with the terms of the bonds and the applicable bond 52710
proceedings. 52711

(U) "Interstate system" has the same meaning as in section 52712
5516.01 of the Revised Code. 52713

Sec. 5540.032. A transportation improvement district and any 52714
governmental agency may enter into an agreement providing for the 52715
joint financing, construction, acquisition, or improvement of any 52716
project benefiting the parties thereto and providing for the joint 52717
management, maintenance, and repair thereof. Any such agreement 52718
shall be approved by resolution or ordinance passed by the 52719
legislative authority of each of the parties to such agreement, 52720
which resolution or ordinance shall authorize the execution 52721
thereof by a designated official or officials of each of such 52722
parties, and such agreement, when so approved and executed, shall 52723
be in full force and effect. 52724

Any party to such an agreement may issue and, notwithstanding 52725
any other provision of the Revised Code, a district may purchase 52726
directly from the party as an investment, securities to evidence 52727
the obligations of that party to the district pursuant to the 52728
agreement for its portion of the cost of the project pursuant to 52729
Chapter 133. or other applicable provisions of the Revised Code. 52730

Sec. 5540.09. (A) The bonds do not constitute a debt, or a 52731
pledge of the faith and credit, of the state or of any political 52732
subdivision of the state. Bond service charges on outstanding 52733
bonds are payable solely from the pledged revenues pledged for 52734
their payment as authorized by this chapter and as provided in the 52735
bond proceedings. All bonds shall contain on their face a 52736
statement to that effect. 52737

(B) All expenses incurred in carrying out this chapter shall 52738
be payable solely from revenues provided under this chapter. ~~This~~ 52739
Except as provided in section 5540.032 of the Revised Code, this 52740
chapter does not authorize the board of trustees of a district to 52741

incur indebtedness or liability on behalf of or payable by the 52742
state or any political subdivision of the state. 52743

Sec. 5543.19. (A) The county engineer may, when authorized by 52744
the board of county commissioners and not required by this section 52745
or other law to use competitive bidding, employ such laborers and 52746
vehicles, use such county employees and property, lease such 52747
implements and tools, and purchase such materials as are necessary 52748
in the construction, reconstruction, improvement, maintenance, or 52749
repair of roads by force account. 52750

In determining whether construction or reconstruction, 52751
including widening and resurfacing, of roads may be undertaken by 52752
force account, the county engineer shall first cause to be made an 52753
estimate of the cost of such work using the force account project 52754
assessment form developed by the auditor of state under section 52755
117.16 of the Revised Code. When the total estimated cost of the 52756
work exceeds thirty thousand dollars per mile or the amount 52757
adjusted under section 117.162 of the Revised Code, the county 52758
commissioners shall invite and receive competitive bids for 52759
furnishing all the labor, materials, and equipment necessary to 52760
complete the work in accordance with sections 307.86 to 307.92 of 52761
the Revised Code. 52762

(B) The county engineer may, when authorized by the board of 52763
county commissioners and not required by this section or other law 52764
to use competitive bidding, employ such laborers and vehicles, use 52765
such county employees and property, lease such implements and 52766
tools, and purchase such materials as are necessary in the 52767
construction, reconstruction, improvement, maintenance, or repair 52768
of bridges and culverts by force account. 52769

In determining whether such construction, reconstruction, 52770
improvement, maintenance, or repair of bridges or culverts may be 52771
undertaken by force account, the county engineer shall first cause 52772

to be made an estimate of the cost of such work using the force
account project assessment form. When the total estimated cost of
the work exceeds one hundred thousand dollars or the amount
adjusted under section 117.162 of the Revised Code, the board of
county commissioners shall invite and receive competitive bids for
furnishing all the labor, materials, and equipment necessary to
complete the work, in accordance with sections 307.86 to 307.92 of
the Revised Code. The county engineer shall obtain the approval
required by section 5543.02 of the Revised Code.

(C) "Force account," as used in this section means that the
county engineer will act as contractor, using labor employed by
the engineer using material and equipment either owned by the
county or leased or purchased in compliance with sections 307.86
to 307.92 of the Revised Code and excludes subcontracting any part
of such work unless done pursuant to sections 307.86 to 307.92 of
the Revised Code.

The term "competitive bids" as used in this section requires
competition for the whole contract and in regard to its component
parts, including labor and materials. Neither plans nor
specifications shall be drawn to favor any manufacturer or bidder
unless required by the public interest.

Sec. 5549.01. The board of county commissioners may purchase
such machinery, tools, or other equipment, including special
wearing apparel, for the construction, improvement, maintenance,
or repair of the highways, bridges, and culverts under its
jurisdiction as it deems necessary. The board may also purchase,
hire, or lease automobiles, motorcycles, or other conveyances and
maintain them for the use of the county engineer and his the
engineer's assistants when on official business. All such
machinery, tools, and equipment, including special wearing
apparel, and conveyances belonging to the county shall be under

the care and custody of the engineer, and shall be plainly and 52804
conspicuously marked as the property of the county. 52805

The engineer ~~shall annually, on the fifteenth day of~~ 52806
~~November, make a written inventory of all such items, indicating~~ 52807
~~each article, stating the value thereof, and the estimated cost of~~ 52808
~~all necessary repairs thereto, and deliver such inventory to the~~ 52809
~~board, which shall cause it to be placed on file. At the same time~~ 52810
he shall file with the board his written recommendations as to 52811
what machinery, tools, and equipment, including special wearing 52812
apparel, and conveyances should be purchased for the use of the 52813
county during the ensuing year and the probable cost thereof. 52814

The board shall provide a suitable place for housing and 52815
storing machinery, tools, and equipment, including special wearing 52816
apparel, materials, and conveyances owned by the county, and may 52817
purchase the necessary material and construct, or enter into an 52818
agreement with a railroad company to construct, one switch or spur 52819
track from the right of way of such railroad company to land or 52820
storage house owned by the county. All expenditures authorized by 52821
this section shall be paid out of any available road funds of the 52822
county. 52823

Purchases, hiring, or leasing made by the board pursuant to 52824
this section shall be governed by sections 307.86 to 307.92~~7~~ 52825
~~inclusive~~, of the Revised Code. 52826

Sec. 5573.13. The proportion of the compensation, damages, 52827
and costs of any road improvement to be paid by the township shall 52828
be paid out of any road improvement fund available therefor. For 52829
the purpose of providing by taxation a fund for the payment of the 52830
township's proportion of the compensation, damages, and costs of 52831
constructing, reconstructing, resurfacing, or improving roads 52832
under sections 5571.01, 5571.06, 5571.07, 5571.15, 5573.01 to 52833
5573.15, ~~inclusive~~, and 5575.02 to 5575.09, ~~inclusive~~, of the 52834

Revised Code, and for the purpose of maintaining, repairing, or 52835
dragging any public road or part thereof under their jurisdiction, 52836
in the manner provided in sections 5571.02 to 5571.05, ~~inclusive,~~ 52837
5571.08, 5571.12, ~~5571.13,~~ and 5575.01 of the Revised Code, the 52838
board of trustees may levy, annually, a tax not exceeding three 52839
mills upon each dollar of the taxable property of said township. 52840
Such levy shall be in addition to all other levies authorized for 52841
township purposes, and subject only to the limitation on the 52842
combined maximum rate for all taxes now in force. The taxes so 52843
authorized shall be placed by the county auditor upon the tax 52844
duplicate, against the taxable property of the township, and 52845
collected by the county treasurer as other taxes. When collected, 52846
such taxes shall be paid to the township clerk of the township 52847
from which they are collected, and the money so received shall be 52848
under the control of the board for the purposes for which the 52849
taxes were levied. 52850

Sec. 5575.01. (A) In the maintenance and repair of roads, the 52851
board of township trustees may proceed either by contract or force 52852
account, but, unless the exemption specified in division (C) of 52853
this section applies, if the board wishes to proceed by force 52854
account, it first shall cause the county engineer to complete the 52855
force account assessment form developed by the auditor of state 52856
under section 117.16 of the Revised Code. Except as otherwise 52857
provided in sections 505.08 and 505.101 of the Revised Code, when 52858
the board proceeds by contract, the contract shall, if the amount 52859
involved exceeds forty-five thousand dollars or the amount 52860
adjusted under section 117.162 of the Revised Code, be let by the 52861
board to the lowest responsible bidder after advertisement for 52862
bids once, not later than two weeks, prior to the date fixed for 52863
the letting of the contract, in a newspaper published in the 52864
county and of general circulation within the township or, if no 52865
newspaper is published in the county, in a newspaper having 52866

general circulation in the township. If the amount involved is 52867
forty-five thousand dollars or the amount adjusted under section 52868
117.162 of the Revised Code or less, a contract may be let without 52869
competitive bidding, or the work may be done by force account. 52870
Such a contract shall be performed under the supervision of a 52871
member of the board or the township road superintendent. 52872

(B) Before undertaking the construction or reconstruction of 52873
a township road, the board shall cause to be made by the county 52874
engineer an estimate of the cost of the work, which estimate shall 52875
include labor, material, freight, fuel, hauling, use of machinery 52876
and equipment, and all other items of cost. If the board finds it 52877
in the best interest of the public, it may, in lieu of 52878
constructing the road by contract, proceed to construct the road 52879
by force account. Except as otherwise provided under sections 52880
505.08 and 505.101 of the Revised Code, where the total estimate 52881
cost of the work exceeds fifteen thousand dollars or the amount 52882
adjusted under section 117.162 of the Revised Code per mile, the 52883
board shall invite and receive competitive bids for furnishing all 52884
the labor, materials, and equipment and doing the work, as 52885
provided in section 5575.02 of the Revised Code, and shall 52886
consider and reject them before ordering the work done by force 52887
account. When such bids are received, considered, and rejected, 52888
and the work is done by force account, the work shall be performed 52889
in compliance with the plans and specifications upon which the 52890
bids were based. 52891

(C) Force account assessment forms are not required under 52892
division (A) of this section for road maintenance or repair 52893
projects of less than fifteen thousand dollars or the amount 52894
adjusted under section 117.162 of the Revised Code, or under 52895
division (B) of this section for road construction or 52896
reconstruction projects of less than five thousand dollars or the 52897
amount adjusted under section 117.162 of the Revised Code per 52898

mile. 52899

(D) All force account work under this section shall be done 52900
under the direction of a member of the board or the township road 52901
superintendent. 52902

Sec. 5701.03. As used in Title LVII of the Revised Code: 52903

(A) "Personal property" includes every tangible thing that is 52904
the subject of ownership, whether animate or inanimate, including 52905
a business fixture, and that does not constitute real property as 52906
defined in section 5701.02 of the Revised Code. "Personal 52907
property" also includes every share, portion, right, or interest, 52908
either legal or equitable, in and to every ship, vessel, or boat, 52909
used or designed to be used in business either exclusively or 52910
partially in navigating any of the waters within or bordering on 52911
this state, whether such ship, vessel, or boat is within the 52912
jurisdiction of this state or elsewhere. "Personal property" does 52913
not include money as defined in section 5701.04 of the Revised 52914
Code, motor vehicles registered by the owner thereof, electricity, 52915
or, for purposes of any tax levied on personal property before tax 52916
year 2006, patterns, jigs, dies, or drawings that are held for use 52917
and not for sale in the ordinary course of business, except to the 52918
extent that the value of the electricity, patterns, jigs, dies, or 52919
drawings is included in the valuation of inventory produced for 52920
sale. 52921

(B) "Business fixture" means an item of tangible personal 52922
property that has become permanently attached or affixed to the 52923
land or to a building, structure, or improvement, and that 52924
primarily benefits the business conducted by the occupant on the 52925
premises and not the realty. "Business fixture" includes, but is 52926
not limited to, machinery, equipment, signs, storage bins and 52927
tanks, whether above or below ground, and broadcasting, 52928
transportation, transmission, and distribution systems, whether 52929

above or below ground. "Business fixture" also means those 52930
portions of buildings, structures, and improvements that are 52931
specially designed, constructed, and used for the business 52932
conducted in the building, structure, or improvement, including, 52933
but not limited to, foundations and supports for machinery and 52934
equipment. "Business fixture" does not include fixtures that are 52935
common to buildings, including, but not limited to, heating, 52936
ventilation, and air conditioning systems primarily used to 52937
control the environment for people or animals, tanks, towers, and 52938
lines for potable water or water for fire control, electrical and 52939
communication lines, and other fixtures that primarily benefit the 52940
realty and not the business conducted by the occupant on the 52941
premises. 52942

Sec. 5703.052. (A) There is hereby created in the state 52943
treasury the tax refund fund, from which refunds shall be paid for 52944
taxes illegally or erroneously assessed or collected, or for any 52945
other reason overpaid, that are levied by Chapter 4301., 4305., 52946
5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748.,
5749., or ~~5753-~~ 5751., and sections 3737.71, 3905.35, 3905.36, 52947
4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 52948
of the Revised Code. Refunds for fees illegally or erroneously 52949
assessed or collected, or for any other reason overpaid, that are 52950
levied by sections 3734.90 to 3734.9014 of the Revised Code also 52951
shall be paid from the fund. However, refunds for taxes levied 52952
under section 5739.101 of the Revised Code shall not be paid from 52953
the tax refund fund, but shall be paid as provided in section 52954
5739.104 of the Revised Code. 52955
52956

(B)(1) Upon certification by the tax commissioner to the 52957
treasurer of state of a tax refund or fee refund, or by the 52958
superintendent of insurance of a domestic or foreign insurance tax 52959
refund, the treasurer of state shall place the amount certified to 52960

the credit of the fund. The certified amount transferred shall be 52961
derived from current receipts of the same tax or the fee from 52962
which the refund arose. If current receipts from the tax or fee 52963
from which the refund arose are inadequate to make the transfer of 52964
the amount so certified, the treasurer of state shall transfer 52965
such certified amount from current receipts of the sales tax 52966
levied by section 5739.02 of the Revised Code. 52967

(2) When the treasurer of state provides for the payment of a 52968
refund of a tax or fee from the current receipts of the sales tax, 52969
and the refund is for a tax or fee that is not levied by the 52970
state, the tax commissioner shall recover the amount of that 52971
refund from the next distribution of that tax or fee that 52972
otherwise would be made to the taxing jurisdiction. If the amount 52973
to be recovered would exceed twenty-five per cent of the next 52974
distribution of that tax or fee, the commissioner may spread the 52975
recovery over more than one future distribution, taking into 52976
account the amount to be recovered and the amount of the 52977
anticipated future distributions. In no event may the commissioner 52978
spread the recovery over a period to exceed twenty-four months. 52979

Sec. 5703.053. As used in this section, "postal service" 52980
means the United States postal service. 52981

An application to the tax commissioner for a tax refund under 52982
section 4307.05, 4307.07, 5727.28, 5727.91, 5728.061, 5735.122, 52983
5735.13, 5735.14, 5735.141, 5735.142, 5739.07, 5741.10, 5743.05, 52984
5743.53, 5745.11, 5749.08, or ~~5753.06~~ 5751.08 of the Revised Code 52985
or division (B) of section 5703.05 of the Revised Code, or a fee 52986
refunded under section 3734.905 of the Revised Code, that is 52987
received after the last day for filing under such section shall be 52988
considered to have been filed in a timely manner if: 52989

(A) The application is delivered by the postal service and 52990
the earliest postal service postmark on the cover in which the 52991

application is enclosed is not later than the last day for filing 52992
the application; 52993

(B) The application is delivered by the postal service, the 52994
only postmark on the cover in which the application is enclosed 52995
was affixed by a private postal meter, the date of that postmark 52996
is not later than the last day for filing the application, and the 52997
application is received within seven days of such last day; or 52998

(C) The application is delivered by the postal service, no 52999
postmark date was affixed to the cover in which the application is 53000
enclosed or the date of the postmark so affixed is not legible, 53001
and the application is received within seven days of the last day 53002
for making the application. 53003

Sec. 5703.057. (A) For the efficient administration of the 53004
taxes and fees administered by the tax commissioner, the 53005
commissioner may require that any person filing a tax document 53006
with the department of taxation provide identifying information, 53007
which may include the person's social security number, federal 53008
employer identification number, or other identification number 53009
requested by the commissioner. A person required by the 53010
commissioner to provide identifying information who has 53011
experienced any change with respect to that information shall 53012
notify the commissioner of the change prior to, or upon, filing 53013
the next tax document requiring such identifying information. 53014

(B) When transmitting or otherwise making use of a tax 53015
document that contains a person's social security number, the 53016
commissioner shall take all reasonable measures necessary to 53017
ensure that the number is not capable of being viewed by the 53018
general public, including, when necessary, masking the number so 53019
that it is not readily discernible by the general public. 53020

(C)(1) If the commissioner makes a request for identifying 53021

information and the commissioner does not receive valid 53022
identifying information within thirty days of making the request, 53023
the commissioner may impose a penalty upon the person to whom the 53024
request was directed of up to one hundred dollars. If, after the 53025
expiration of this thirty day period, the commissioner makes one 53026
or more subsequent requests for identifying information and the 53027
person to whom the subsequent request is directed fails to provide 53028
valid identifying information within thirty days of the 53029
commissioner's subsequent request, the commissioner may impose an 53030
additional penalty of up to two hundred dollars for each 53031
subsequent request not complied with in a timely fashion. 53032

(2) If a person required by the commissioner to provide 53033
identifying information does not notify the commissioner of a 53034
change with respect to that information as required under division 53035
(A) of this section within thirty days after filing the next tax 53036
document requiring such identifying information, the commissioner 53037
may impose a penalty of up to fifty dollars. 53038

(3) The penalties provided for under divisions (C)(1) and (2) 53039
of this section may be billed and assessed in the same manner as 53040
the tax or fee with respect to which the identifying information 53041
is sought and are in addition to any applicable criminal penalties 53042
described in division (D) of this section and any other penalties 53043
that may be imposed by the commissioner by law. 53044

(D) Section 5703.26 of the Revised Code applies with respect 53045
to false or fraudulent identifying information provided by a 53046
person to the commissioner under this section. 53047

Sec. 5703.47. (A) As used in this section, "federal 53048
short-term rate" means the rate of the average market yield on 53049
outstanding marketable obligations of the United States with 53050
remaining periods to maturity of three years or less, as 53051
determined under section 1274 of the "Internal Revenue Code of 53052

1986," 100 Stat. 2085, 26 U.S.C.A. 1274, for July of the current 53053
year. 53054

(B) On the fifteenth day of October of each year, the tax 53055
commissioner shall determine the federal short-term rate. For 53056
purposes of any section of the Revised Code requiring interest to 53057
be computed at the rate per annum required by this section, the 53058
rate determined by the commissioner under this section, rounded to 53059
the nearest whole number per cent, plus three per cent, shall be 53060
the interest rate per annum used in making the computation for 53061
interest that accrues during the following calendar year. For the 53062
purposes of sections 5719.041 and 5731.23 of the Revised Code, 53063
references to the "federal short-term rate" are references to the 53064
federal short-term rate as determined by the tax commissioner 53065
under this section rounded to the nearest whole number per cent. 53066

(C) Within ten days after the interest rate per annum is 53067
determined under this section, the tax commissioner shall notify 53068
the auditor of each county in writing of that rate of interest. 53069

Sec. 5703.50. As used in sections 5703.50 to 5703.53 of the 53070
Revised Code: 53071

(A) "Tax" includes only those taxes imposed on tangible 53072
personal property listed in accordance with Chapter 5711. of the 53073
Revised Code and taxes imposed under Chapters 5733., 5739., 5741., 53074
~~and 5747.~~, and 5751. of the Revised Code. 53075

(B) "Taxpayer" means a person subject to or potentially 53076
subject to a tax including an employer required to deduct and 53077
withhold any amount under section 5747.06 of the Revised Code. 53078

(C) "Audit" means the examination of a taxpayer or the 53079
inspection of the books, records, memoranda, or accounts of a 53080
taxpayer for the purpose of determining liability for a tax. 53081

(D) "Assessment" means a notice of underpayment or nonpayment 53082

of a tax issued pursuant to section 5711.26, 5711.32, 5733.11, 53083
5739.13, 5741.11, 5741.13, ~~or~~ 5747.13, or 5751.09 of the Revised 53084
Code. 53085

(E) "County auditor" means the auditor of the county in which 53086
the tangible personal property subject to a tax is located. 53087

Sec. 5703.70. (A) On the filing of an application for refund 53088
under section 3734.905, 4307.05, 4307.07, 5727.28, 5727.91, 53089
5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 53090
5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 5743.53, 53091
~~or~~ 5749.08, or 5751.08 of the Revised Code, or an application for 53092
compensation under section 5739.123 of the Revised Code, if the 53093
tax commissioner determines that the amount of the refund or 53094
compensation to which the applicant is entitled is less than the 53095
amount claimed in the application, the commissioner shall give the 53096
applicant written notice by ordinary mail of the amount. The 53097
notice shall be sent to the address shown on the application 53098
unless the applicant notifies the commissioner of a different 53099
address. The applicant shall have sixty days from the date the 53100
commissioner mails the notice to provide additional information to 53101
the commissioner or request a hearing, or both. 53102

(B) If the applicant neither requests a hearing nor provides 53103
additional information to the tax commissioner within the time 53104
prescribed by division (A) of this section, the commissioner shall 53105
take no further action, and the refund amount or compensation 53106
amount denied becomes final. 53107

(C)(1) If the applicant requests a hearing within the time 53108
prescribed by division (A) of this section, the tax commissioner 53109
shall assign a time and place for the hearing and notify the 53110
applicant of such time and place, but the commissioner may 53111
continue the hearing from time to time as necessary. After the 53112
hearing, the commissioner may make such adjustments to the refund 53113

or compensation as the commissioner finds proper, and shall issue 53114
a final determination thereon. 53115

(2) If the applicant does not request a hearing, but provides 53116
additional information, within the time prescribed by division (A) 53117
of this section, the commissioner shall review the information, 53118
make such adjustments to the refund or compensation as the 53119
commissioner finds proper, and issue a final determination 53120
thereon. 53121

(3) The commissioner shall serve a copy of the final 53122
determination made under division (C)(1) or (2) of this section on 53123
the applicant in the manner provided in section 5703.37 of the 53124
Revised Code, and the decision is final, subject to appeal under 53125
section 5717.02 of the Revised Code. 53126

(D) The tax commissioner shall certify to the director of 53127
budget and management and treasurer of state for payment from the 53128
tax refund fund created by section 5703.052 of the Revised Code, 53129
the amount of the refund to be refunded under division (B) or (C) 53130
of this section. The commissioner also shall certify to the 53131
director and treasurer of state for payment from the general 53132
revenue fund the amount of compensation to be paid under division 53133
(B) or (C) of this section. 53134

Sec. 5703.80. There is hereby created in the state treasury 53135
the property tax administration fund. All money to the credit of 53136
the fund shall be used to defray the costs incurred by the 53137
department of taxation in administering the taxation of property 53138
and the equalization of real property valuation. 53139

Each fiscal year between the first and fifteenth days of 53140
July, the tax commissioner shall compute the following amounts for 53141
the property in each taxing district in each county, and certify 53142
to the director of budget and management the sum of those amounts 53143

for all taxing districts in all counties: 53144

(A) ~~Three tenths~~ For fiscal year 2006, thirty-three 53145
hundredths of one per cent of the total amount by which taxes 53146
charged against real property on the general tax list of real and 53147
public utility property were reduced under section 319.302 of the 53148
Revised Code for the preceding tax year; 53149

(B) ~~Fifteen hundredths~~ For fiscal year 2007 and thereafter, 53150
thirty-five hundredths of one per cent of the total amount by 53151
which taxes charged against real property on the general tax list 53152
of real and public utility property were reduced under section 53153
319.302 of the Revised Code for the preceding tax year; 53154

(C) For fiscal year 2006, one-half of one per cent of the 53155
total amount of taxes charged and payable against public utility 53156
personal property on the general tax list of real and public 53157
utility property for the preceding tax year and of the total 53158
amount of taxes charged and payable against tangible personal 53159
property on the general tax list of personal property of the 53160
preceding tax year and for which returns were filed with the tax 53161
commissioner under section 5711.13 of the Revised Code; 53162

~~(C) Seventy five~~ (D) For fiscal year 2007, fifty-six 53163
hundredths of one per cent of the total amount of taxes charged 53164
and payable against public utility personal property on the 53165
general tax list of real and public utility property for the 53166
preceding tax year and of the total amount of taxes charged and 53167
payable against tangible personal property on the general tax list 53168
of personal property of the preceding tax year and for which 53169
returns were filed with the tax commissioner under section 5711.13 53170
of the Revised Code; 53171

(E) For fiscal year 2008 and thereafter, six-tenths of one 53172
per cent of the total amount of taxes charged and payable against 53173
public utility personal property on the general tax list of real 53174

and public utility property for the preceding tax year and of the 53175
total amount of taxes charged and payable against tangible 53176
personal property on the general tax list of personal property of 53177
the preceding tax year and for which returns were filed with the 53178
tax commissioner under section 5711.13 of the Revised Code. 53179

After receiving the tax commissioner's certification, the 53180
director of budget and management shall transfer from the general 53181
revenue fund to the property tax administration fund one-fourth of 53182
the amount certified on or before each of the following days: the 53183
first days of August, November, February, and May. 53184

On or before the thirtieth day of June of the fiscal year, 53185
the tax commissioner shall certify to the director of budget and 53186
management the sum of the amounts by which the amounts computed 53187
for a taxing district under ~~divisions (A), (B), and (C)~~ of this 53188
section exceeded the distributions to the taxing district under 53189
division (F) of section 321.24 of the Revised Code, and the 53190
director shall transfer that sum from the property tax 53191
administration fund to the general revenue fund. 53192

Sec. 5705.02. The aggregate amount of taxes that may be 53193
levied on any taxable property in any subdivision or other taxing 53194
unit shall not in any one year exceed ten mills on each dollar of 53195
tax valuation of such subdivision or other taxing unit, except for 53196
taxes specifically authorized to be levied in excess thereof. The 53197
limitation provided by this section shall be known as the 53198
"ten-mill limitation," ~~and.~~ Except when used in reference to 53199
taxes authorized pursuant to section 5705.219 of the Revised Code, 53200
wherever said term is used in the Revised Code, it refers to and 53201
includes both the limitation imposed by this section and the 53202
limitation imposed by Section 2 of Article XII, Ohio Constitution. 53203

Sec. 5705.091. The board of county commissioners of each 53204

county shall establish a county mental retardation and 53205
developmental disabilities general fund. Notwithstanding sections 53206
5705.09 and 5705.10 of the Revised Code, proceeds from levies 53207
under section 5705.222 and division (L) of section 5705.19 of the 53208
Revised Code shall be deposited to the credit of the county mental 53209
retardation and developmental disabilities general fund. Accounts 53210
shall be established within the county mental retardation and 53211
developmental disabilities general fund for each of the several 53212
particular purposes of the levies as specified in the resolutions 53213
under which the levies were approved, and proceeds from different 53214
levies that were approved for the same particular purpose shall be 53215
credited to accounts for that purpose. Other money received by the 53216
county for the purposes of Chapters 3323. and 5126. of the Revised 53217
Code and not required by state or federal law to be deposited to 53218
the credit of a different fund shall also be deposited to the 53219
credit of the county mental retardation and developmental 53220
disabilities general fund, in an account appropriate to the 53221
particular purpose for which the money was received. Unless 53222
otherwise provided by law, an unexpended balance at the end of a 53223
fiscal year in any account in the county mental retardation and 53224
developmental disabilities general fund shall be appropriated the 53225
next fiscal year to the same fund. 53226

A county board of mental retardation and developmental 53227
disabilities may request, by resolution, that the board of county 53228
commissioners establish a county mental retardation and 53229
developmental disabilities capital fund for money to be used for 53230
acquisition, construction, or improvement of capital facilities or 53231
acquisition of capital equipment used in providing services to 53232
mentally retarded and developmentally disabled persons. The county 53233
board of mental retardation and developmental disabilities shall 53234
transmit a certified copy of the resolution to the board of county 53235
commissioners. Upon receiving the resolution, the board of county 53236
commissioners shall establish a county mental retardation and 53237

developmental disabilities capital fund.

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A county board shall request, by resolution, that the board of county commissioners establish a county MR/DD medicaid reserve fund. On receipt of the resolution, the board of county commissioners shall establish a county MR/DD medicaid reserve fund. The portion of federal revenue funds that the county board earns for providing ~~habilitation center services~~, medicaid case management services, and home and community-based services that is needed for the county board to pay for extraordinary costs, including extraordinary costs for services to individuals with mental retardation or other developmental disability, and ensure the availability of adequate funds in the event a county property tax levy for services for individuals with mental retardation or other developmental disability fails shall be deposited into the fund. The county board shall use money in the fund for those purposes in accordance with rules adopted under section 5123.0413 of the Revised Code.

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Sec. 5705.214. Not more than three elections during any calendar year shall include the questions by a school district of tax levies proposed under any one or any combination of the following sections: sections 5705.194, 5705.21, 5705.212, 5705.213, 5705.217, ~~and~~ 5705.218, and 5705.219 of the Revised Code.

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Sec. 5705.219. (A)(1) The board of education of a city, local, or exempted village school district may adopt a resolution, by a vote of two-thirds of all of the members of the board, proposing to levy an additional tax within the one per cent limitation for one of the purposes specified under division (A) or (F) of section 5705.19 of the Revised Code or for the purpose of general, ongoing permanent improvements. A board of education

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shall not propose to levy a tax pursuant to this section at a rate 53268
that, when added to the rates of any other taxes levied pursuant 53269
to this section, would cause the aggregate rate of such taxes for 53270
any tax year to exceed eight mills per dollar of the taxable value 53271
of taxable property in the school district. A resolution adopted 53272
under this section may propose to renew an existing tax imposed 53273
pursuant to this section for the same purpose, or may propose, as 53274
a single question, to authorize a tax under this paragraph to 53275
replace one or more existing taxes being levied for the same 53276
purpose in excess of the ten-mill limitation pursuant to section 53277
5705.21 of the Revised Code. For the purposes of sections 133.01, 53278
319.301, 5705.02, 5705.04, 5705.06, 5705.07, 5705.29, 5705.31, 53279
5705.34, 5705.51, and any other section of the Revised Code 53280
respecting the classification of tax levies according to 53281
limitations on the rate, a tax authorized pursuant to this section 53282
is in excess of the ten-mill limitation but is not in excess of 53283
the one per cent limitation imposed by Section 2 of Article XII, 53284
Ohio Constitution. 53285

(2) The board shall specify in the resolution that the taxes 53286
charged and payable against carryover property, as defined in 53287
section 319.301 of the Revised Code, in each of the classes of 53288
real property classified under section 5713.041 of the Revised 53289
Code shall not increase from one year to the next year by more 53290
than a percentage specified in the resolution, which shall be not 53291
more than four per cent. The percentage shall be the same for each 53292
class of real property. 53293

(3) The resolution shall be confined to a single purpose and 53294
shall specify the amount of the increase in rate, the purpose of 53295
the increase, the percentage specified under division (A)(2) of 53296
this section, and the number of years during which the increase 53297
shall be in effect. The number of years may be any number not 53298
exceeding seven. If the resolution proposes to levy a tax to 53299

replace one or more existing taxes, the resolution also shall 53300
specify the rate of each existing tax proposed to be replaced. A 53301
tax levied to replace one or more existing taxes shall not be 53302
levied on the current tax lists and duplicates but shall first be 53303
levied on the tax lists and duplicates for the tax year succeeding 53304
the date of the election at which the tax is approved. The 53305
existing taxes proposed to be replaced shall be repealed effective 53306
on the first day of January next succeeding the election. The 53307
resolution shall specify the date for holding the election, which 53308
shall not be earlier than seventy-five days after the adoption and 53309
certification of such resolution and which shall be consistent 53310
with the requirements of section 3501.01 of the Revised Code. 53311

(4) The resolution shall go into immediate effect upon its 53312
passage, and no publication of the resolution shall be necessary 53313
other than that provided for in the notice of election. 53314
Publication of notice of the election shall be made in one or more 53315
newspapers of general circulation in the county once a week for 53316
four consecutive weeks. 53317

(B) A copy of a resolution adopted under division (A) of this 53318
section shall be certified by the board of education to the board 53319
of elections of the proper county not less than seventy-five days 53320
before the election specified in the resolution, and the board of 53321
elections shall submit the proposal to the electors of the school 53322
district at that election. The board of elections shall make the 53323
necessary arrangements for the submission of the question to the 53324
electors of the school district, and the election shall be 53325
conducted, canvassed, and certified in the same manner as regular 53326
elections in the school district for the election of officers. 53327
Notice of the election shall be published in a newspaper of 53328
general circulation in the school district once a week for four 53329
consecutive weeks prior to the election, stating the purpose, the 53330
proposed increase in rate, expressed in dollars and cents for each 53331

one hundred dollars of valuation as well as in mills for each one 53332
dollar of valuation, the number of years during which such 53333
increase will be in effect, and the time and place of the 53334
election. The notice also shall include the following statement, 53335
or a statement of substantially similar meaning: "if the levy is 53336
approved by the electors, the total amount of taxes charged by the 53337
levy against real property in the school district will not 53338
increase by more than (here insert the percentage 53339
specified pursuant to division (A)(2) of this section) each year, 53340
except for increases arising from real property newly added to the 53341
school district tax lists." 53342

The form of the ballots cast at an election held pursuant to 53343
this section shall be as follows: 53344

"A tax for the benefit of (name of school 53345
district) for the purpose of (purpose stated in the 53346
resolution) at a rate not exceeding mills for each one 53347
dollar of valuation, which amounts to (rate expressed in 53348
dollars and cents) for each one hundred dollars of valuation, for 53349
..... (number of years the levy is to run). If the levy is 53350
approved by the electors, the total amount of taxes charged by the 53351
levy against real property in the school district will not 53352
increase by more than (here insert the percentage 53353
specified pursuant to division (A)(2) of this section) each year, 53354
except for increases arising from real property newly added to the 53355
school district tax lists. 53356

	<u>For the tax levy</u>	"
	<u>Against the tax levy</u>	

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If the question submitted is a proposal to renew an existing 53359
levy imposed pursuant to this section, the form of the ballot 53360
specified in this division shall be changed by substituting for 53361
the words "A tax" at the beginning of the form the words "A 53362
renewal of a tax." If the question submitted is a proposal to 53363

replace one or more existing taxes, the form of the ballot shall 53364
be changed by adding at the end of the first sentence "to replace 53365
an existing tax currently authorized to be levied at a rate of 53366
..... mills for each one dollar of valuation." If more than one 53367
existing tax is proposed to be replaced, the form shall be 53368
modified accordingly, indicating the rate at which each existing 53369
tax is authorized to be levied. 53370

The question covered by the resolution shall be submitted as 53371
a separate proposition but may be printed on the same ballot with 53372
any other proposition submitted at the same election, other than 53373
the election of officers. 53374

If a majority of electors voting on the question vote in 53375
favor of the tax, the result of the election shall be certified to 53376
the tax commissioner. In the first year of the levy, it shall be 53377
extended on the tax lists after the February settlement next 53378
succeeding the election. If the tax is to be placed upon the tax 53379
list of the current year, as specified in the resolution providing 53380
for its submission, the result of the election shall be certified 53381
immediately after the canvass by the board of elections to the 53382
board of education, which shall forthwith make the necessary levy 53383
and certify it to the county auditor, who shall extend it on the 53384
tax lists for collection. After the first year, the tax levy shall 53385
be included in the annual tax budget that is certified to the 53386
county budget commission. 53387

If a majority of the electors voting on the question vote in 53388
favor of the levy, the board of education may forthwith make the 53389
necessary levy within the school district at the additional rate, 53390
or at any lesser rate, for the purpose stated in the resolution. 53391
The levy shall be included in the next tax budget that is 53392
certified to the county budget commission. 53393

(C)(1) After the approval of a levy on the current tax list 53394

and duplicate for current expenses and before the first tax 53395
collection from such levy can be made, the board of education may 53396
anticipate a fraction of the proceeds of the levy and issue 53397
anticipation notes in a principal amount not exceeding fifty per 53398
cent of the total estimated proceeds of the levy to be collected 53399
during the first year of the levy. 53400

(2) After the approval of a levy for permanent improvements 53401
or for general, ongoing permanent improvements, the board of 53402
education may anticipate a fraction of the proceeds of the levy 53403
and issue anticipation notes in a principal amount not exceeding 53404
fifty per cent of the total estimated proceeds of the levy 53405
remaining to be collected in each year over a period of five years 53406
after the year in which the notes are issued. 53407

(3) The notes shall be issued as provided in section 133.24 53408
of the Revised Code, shall have principal payments during each 53409
year after the year of their issuance over a period not to exceed 53410
five years, and may have a principal payment in the year of their 53411
issuance. 53412

Sec. 5705.29. This section does not apply to a subdivision or 53413
taxing unit for which the county budget commission has waived the 53414
requirement to adopt a tax budget pursuant to section 5705.281 of 53415
the Revised Code. The tax budget shall present the following 53416
information in such detail as is prescribed by the auditor of 53417
state: 53418

(A)(1) A statement of the necessary current operating 53419
expenses for the ensuing fiscal year for each department and 53420
division of the subdivision, classified as to personal services 53421
and other expenses, and the fund from which such expenditures are 53422
to be made. Except in the case of a school district, this estimate 53423
may include a contingent expense not designated for any particular 53424
purpose, and not to exceed three per cent of the total amount of 53425

appropriations for current expenses. In the case of a school 53426
district, this estimate may include a contingent expense not 53427
designated for any particular purpose and not to exceed thirteen 53428
per cent of the total amount of appropriations for current 53429
expenses. 53430

(2) A statement of the expenditures for the ensuing fiscal 53431
year necessary for permanent improvements, exclusive of any 53432
expense to be paid from bond issues, classified as to the 53433
improvements contemplated by the subdivision and the fund from 53434
which such expenditures are to be made; 53435

(3) The amounts required for the payment of final judgments; 53436

(4) A statement of expenditures for the ensuing fiscal year 53437
necessary for any purpose for which a special levy is authorized, 53438
and the fund from which such expenditures are to be made; 53439

(5) Comparative statements, so far as possible, in parallel 53440
columns of corresponding items of expenditures for the current 53441
fiscal year and the two preceding fiscal years. 53442

(B)(1) An estimate of receipts from other sources than the 53443
general property tax during the ensuing fiscal year, which shall 53444
include an estimate of unencumbered balances at the end of the 53445
current fiscal year, and the funds to which such estimated 53446
receipts are credited; 53447

(2) The amount each fund requires from the general property 53448
tax, which shall be the difference between the contemplated 53449
expenditure from the fund and the estimated receipts, as provided 53450
in this section. The section of the Revised Code under which the 53451
tax is authorized shall be set forth. 53452

(3) Comparative statements, so far as possible, in parallel 53453
columns of taxes and other revenues for the current fiscal year 53454
and the two preceding fiscal years. 53455

(C)(1) The amount required for debt charges;	53456
(2) The estimated receipts from sources other than the tax	53457
levy for payment of such debt charges, including the proceeds of	53458
refunding bonds to be issued to refund bonds maturing in the next	53459
succeeding fiscal year;	53460
(3) The net amount for which a tax levy shall be made,	53461
classified as to bonds authorized and issued prior to January 1,	53462
1922, and those authorized and issued subsequent to such date, and	53463
as to what portion of the levy will be within and what in excess	53464
of the ten-mill limitation.	53465
(D) An estimate of amounts from taxes authorized to be levied	53466
in excess of the ten-mill limitation on the tax rate, and the fund	53467
to which such amounts will be credited, together with the sections	53468
of the Revised Code under which each such tax is exempted from all	53469
limitations on the tax rate.	53470
(E)(1) A board of education may include in its budget for the	53471
fiscal year in which a levy proposed under section <u>5705.219</u> ,	53472
5705.194, 5705.21, or 5705.213, or the original levy under section	53473
5705.212 of the Revised Code is first extended on the tax list and	53474
duplicate an estimate of expenditures to be known as a voluntary	53475
contingency reserve balance, which shall not be greater than	53476
twenty-five per cent of the total amount of the levy estimated to	53477
be available for appropriation in such year.	53478
(2) A board of education may include in its budget for the	53479
fiscal year following the year in which a levy proposed under	53480
section <u>5705.219</u> , 5705.194, 5705.21, or 5705.213, or the original	53481
levy under section 5705.212 of the Revised Code is first extended	53482
on the tax list and duplicate an estimate of expenditures to be	53483
known as a voluntary contingency reserve balance, which shall not	53484
be greater than twenty per cent of the amount of the levy	53485
estimated to be available for appropriation in such year.	53486

(3) Except as provided in division (E)(4) of this section, 53487
the full amount of any reserve balance the board includes in its 53488
budget shall be retained by the county auditor and county 53489
treasurer out of the first semiannual settlement of taxes until 53490
the beginning of the next succeeding fiscal year, and thereupon, 53491
with the depository interest apportioned thereto, it shall be 53492
turned over to the board of education, to be used for the purposes 53493
of such fiscal year. 53494

(4) A board of education, by a two-thirds vote of all members 53495
of the board, may appropriate any amount withheld as a voluntary 53496
contingency reserve balance during the fiscal year for any lawful 53497
purpose, provided that prior to such appropriation the board of 53498
education has authorized the expenditure of all amounts 53499
appropriated for contingencies under section 5705.40 of the 53500
Revised Code. Upon request by the board of education, the county 53501
auditor shall draw a warrant on the district's account in the 53502
county treasury payable to the district in the amount requested. 53503

(F)(1) A board of education may include a spending reserve in 53504
its budget for fiscal years ending on or before June 30, 2002. The 53505
spending reserve shall consist of an estimate of expenditures not 53506
to exceed the district's spending reserve balance. A district's 53507
spending reserve balance is the amount by which the designated 53508
percentage of the district's estimated personal property taxes to 53509
be settled during the calendar year in which the fiscal year ends 53510
exceeds the estimated amount of personal property taxes to be so 53511
settled and received by the district during that fiscal year. 53512
Moneys from a spending reserve shall be appropriated in accordance 53513
with section 133.301 of the Revised Code. 53514

(2) For the purposes of computing a school district's 53515
spending reserve balance for a fiscal year, the designated 53516
percentage shall be as follows: 53517

Fiscal year ending in:	Designated percentage	53518
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1998	50%	53519
1999	40%	53520
2000	30%	53521
2001	20%	53522
2002	10%	53523

(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~~

~~district during such year, the outstanding and unpaid expenses on 53551
the date the appropriation measure, amendment, or supplement is 53552
adopted; the date or dates by which such expenses must be paid; 53553
and such other information as the superintendent requires to 53554
enable the superintendent to determine whether during such year 53555
the district will incur any expenses that will impair its ability 53556
to operate its schools with the revenue available to it from 53557
existing revenue sources. The plan or amended plan shall be 53558
presented in such detail and form as the superintendent 53559
prescribes. 53560~~

~~(B)(A) No later than July 1, 1998, the department of 53561
education and the auditor of state shall jointly adopt rules 53562
requiring ~~school districts to include~~ boards of education to 53563
submit five-year projections of operational revenues and 53564
expenditures ~~in the spending plan required by this section~~. The 53565
rules shall provide for the auditor of state or the department to 53566
examine the five-year projections and to determine whether any 53567
further fiscal analysis is needed to ascertain whether a district 53568
has the potential to incur a deficit during the first three years 53569
of the five-year period. 53570~~

~~The auditor of state or the department may conduct any 53571
further audits or analyses necessary to assess any district's 53572
fiscal condition. If further audits or analyses are conducted by 53573
the auditor of state, the auditor of state shall notify the 53574
department of the district's fiscal condition, and the department 53575
shall immediately notify the district of any potential to incur a 53576
deficit in the current fiscal year or of any strong indications 53577
that a deficit will be incurred in either of the ensuing two 53578
years. If such audits or analyses are conducted by the department, 53579
the department shall immediately notify the district and the 53580
auditor of state of such potential deficit or strong indications 53581
thereof. 53582~~

A district notified under this section shall take immediate 53583
steps to eliminate any deficit in the current fiscal year and 53584
shall begin to plan to avoid the projected future deficits. 53585

~~(C)~~(B) The state board of education, in accordance with 53586
sections 3319.31 and 3319.311 of the Revised Code, may limit, 53587
suspend, or revoke a license as defined under section 3319.31 of 53588
the Revised Code that has been issued to any school employee found 53589
to have willfully contributed erroneous, inaccurate, or incomplete 53590
data required for the submission of the ~~appropriation measure and~~ 53591
~~spending plan~~ five-year projection required by this section. 53592

Sec. 5705.392. A board of county commissioners may adopt as a 53593
part of its annual appropriation ~~measure~~ resolution a spending 53594
plan, or in the case of an amended appropriation ~~measure~~ 53595
resolution, an amended spending plan, setting forth a quarterly 53596
schedule of expenses and expenditures of ~~all~~ any appropriations 53597
for the fiscal year from ~~the~~ any county ~~general~~ fund. The spending 53598
plan or amended spending plan shall be classified to set forth 53599
separately a quarterly schedule of expenses and expenditures for 53600
~~each~~ any office, department, and division, and, within each, the 53601
amount appropriated for personal services. Each office, 53602
department, and division for which a spending plan or amended 53603
spending plan is adopted shall be limited in its expenses and 53604
expenditures of moneys appropriated from the ~~general~~ applicable 53605
fund during any quarter by the schedule established in the 53606
spending plan or amended spending plan. The schedule established 53607
in the spending plan or amended spending plan shall serve as a 53608
limitation during a quarter on ~~the making of~~ entering into 53609
contracts and giving ~~of~~ orders involving the expenditure of money 53610
during that quarter for purposes of division (D) of section 53611
5705.41 of the Revised Code. 53612

The board of county commissioners shall give to each office, 53613

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. 53614
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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. 53624
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(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. 53629
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(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. 53635
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(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 otherwise due, then for the calendar year the dealer in 53641
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intangibles shall claim a refundable credit equal to the sum of 53645
the following: 53646

(1) The amount, if any, of the tax otherwise due; 53647

(2) Seventy-five per cent of the difference between the 53648
amount of the refundable credit shown on the certificate and the 53649
tax otherwise due. 53650

(E) If the dealer in intangibles elected a nonrefundable 53651
credit under section 150.07 of the Revised Code and if the 53652
nonrefundable credit to which the dealer in intangibles would 53653
otherwise be entitled under this section for any calendar year is 53654
greater than the tax otherwise due, the excess shall be allowed as 53655
a nonrefundable credit in each of the ensuing ten calendar years, 53656
but the amount of any excess nonrefundable credit allowed in the 53657
ensuing calendar year shall be deducted from the balance carried 53658
forward to the next calendar year. 53659

Sec. 5709.07. (A) The following property shall be exempt from 53660
taxation: 53661

(1) Public schoolhouses, the books and furniture in them, and 53662
the ground attached to them necessary for the proper occupancy, 53663
use, and enjoyment of the schoolhouses, and not leased or 53664
otherwise used with a view to profit; 53665

(2) Houses used exclusively for public worship, the books and 53666
furniture in them, and the ground attached to them that is not 53667
leased or otherwise used with a view to profit and that is 53668
necessary for their proper occupancy, use, and enjoyment; 53669

(3) Real property owned and operated by a church that is used 53670
primarily for church retreats or church camping, and that is not 53671
used as a permanent residence. Real property exempted under 53672
division (A)(3) of this section may be made available by the 53673
church on a limited basis to charitable and educational 53674

institutions if the property is not leased or otherwise made 53675
available with a view to profit. 53676

(4) Public colleges and academies and all buildings connected 53677
with them, and all lands connected with public institutions of 53678
learning, not used with a view to profit, including those 53679
buildings and lands that satisfy all of the following: 53680

(a) The buildings are used for housing or housing-related 53681
facilities for full-time students, faculty, or employees of a 53682
state university, or for other purposes related to the state 53683
university's educational purpose, and the lands are used for 53684
common space, walkways, and green spaces for the state 53685
university's students, faculty, or employees. As used in this 53686
division, "housing-related facilities" includes parking facilities 53687
related to the buildings and common buildings made available to 53688
students, faculty, or employees of a state university. The leasing 53689
of housing to full-time students of the state university is not 53690
used with a view to profit under this division. 53691

(b) The buildings and lands are supervised or otherwise under 53692
the control, directly or indirectly, of an organization that is 53693
exempt from federal income taxation under section 501(c)(3) of the 53694
Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as 53695
amended, and the state university has entered into a joint 53696
agreement with the organization that entitles the students, 53697
faculty, or employees of the state university to use the lands or 53698
buildings; 53699

(c) The state university has agreed, under the terms of the 53700
joint agreement with the organization described in division 53701
(A)(4)(b) of this section, that the state university, to the 53702
extent applicable under the agreement, will make payments to the 53703
organization in amounts sufficient to maintain agreed-upon debt 53704
service coverage ratios on bonds related to the lands or 53705

buildings. 53706

(B) ~~This~~ Except as provided in division (A)(4) of this 53707
section, this section shall not extend to leasehold estates or 53708
real property held under the authority of a college or university 53709
of learning in this state; but leaseholds, or other estates or 53710
property, real or personal, the rents, issues, profits, and income 53711
of which is given to a municipal corporation, school district, or 53712
subdistrict in this state exclusively for the use, endowment, or 53713
support of schools for the free education of youth without charge 53714
shall be exempt from taxation as long as such property, or the 53715
rents, issues, profits, or income of the property is used and 53716
exclusively applied for the support of free education by such 53717
municipal corporation, district, or subdistrict. 53718

(C) As used in this section, ~~"church":~~ 53719

(1) "Church" means a fellowship of believers, congregation, 53720
society, corporation, convention, or association that is formed 53721
primarily or exclusively for religious purposes and that is not 53722
formed for the private profit of any person. 53723

(2) "State university" has the same meaning as in section 53724
3345.011 of the Revised Code. 53725

Sec. 5709.40. (A) As used in this section: 53726

(1) "Blighted area" and "impacted city" have the same 53727
meanings as in section 1728.01 of the Revised Code. 53728

(2) "Business day" means a day of the week excluding 53729
Saturday, Sunday, and a legal holiday as defined under section 53730
1.14 of the Revised Code. 53731

(3) "Housing renovation" means a project carried out for 53732
residential purposes. 53733

(4) "Improvement" means the increase in the assessed value of 53734
any real property that would first appear on the tax list and 53735

duplicate of real and public utility property after the effective 53736
date of an ordinance adopted under this section were it not for 53737
the exemption granted by that ordinance. ~~"Improvement" does not~~ 53738
~~include a public infrastructure improvement.~~ 53739

(5) "Incentive district" means an area not more than three 53740
hundred acres in size enclosed by a continuous boundary and having 53741
one or more of the following distress characteristics: 53742

(a) At least fifty-one per cent of the residents of the 53743
district have incomes of less than eighty per cent of the median 53744
income of residents of the political subdivision in which the 53745
district is located, as determined in the same manner specified 53746
under section 119(b) of the "Housing and Community Development Act 53747
of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended; 53748

(b) The average rate of unemployment in the district during 53749
the most recent twelve-month period for which data are available 53750
is equal to at least one hundred fifty per cent of the average 53751
rate of unemployment for this state for the same period. 53752

(c) At least twenty per cent of the people residing in the 53753
district live at or below the poverty level as defined in the 53754
federal Housing and Community Development Act of 1974, 42 U.S.C. 53755
5301, as amended, and regulations adopted pursuant to that act. 53756

(d) The district is a blighted area. 53757

(e) The district is in a situational distress area as 53758
designated by the director of development under division (F) of 53759
section 122.23 of the Revised Code. 53760

(f) As certified by the engineer for the political 53761
subdivision, the public infrastructure serving the district is 53762
inadequate to meet the development needs of the district as 53763
evidenced by a written economic development plan or urban renewal 53764
plan for the district that has been adopted by the legislative 53765

authority of the subdivision. 53766

(g) The district is comprised entirely of unimproved land 53767
that is located in a distressed area as defined in section 122.23 53768
of the Revised Code. 53769

(6) "Project" means development activities undertaken on one 53770
or more parcels, including, but not limited to, construction, 53771
expansion, and alteration of buildings or structures, demolition, 53772
remediation, and site development, and any building or structure 53773
that results from those activities. 53774

(7) "Public infrastructure improvement" includes, but is not 53775
limited to, public roads and highways; water and sewer lines; 53776
environmental remediation; land acquisition, including acquisition 53777
in aid of industry, commerce, distribution, or research; 53778
demolition, including demolition on private property when 53779
determined to be necessary for economic development purposes; 53780
stormwater and flood remediation projects, including such projects 53781
on private property when determined to be necessary for public 53782
health, safety, and welfare; the provision of gas, electric, and 53783
communications service facilities; and the enhancement of public 53784
waterways through improvements that allow for greater public 53785
access. 53786

(B) The legislative authority of a municipal corporation, by 53787
ordinance, may declare improvements to certain parcels of real 53788
property located in the municipal corporation to be a public 53789
purpose. Improvements with respect to a parcel that is used or to 53790
be used for residential purposes may be declared a public purpose 53791
under this division only if the parcel is located in a blighted 53792
area of an impacted city. Except as otherwise provided in division 53793
(D) of this section, not more than seventy-five per cent of an 53794
improvement thus declared to be a public purpose may be exempted 53795
from real property taxation; ~~the percentage exempted shall not,~~ 53796

~~except as otherwise provided in that division, exceed the~~ 53797
~~estimated percentage of the incremental demand placed on the~~ 53798
~~public infrastructure improvements that is directly attributable~~ 53799
~~to the exempted improvement.~~ The ordinance shall specify the 53800
percentage of the improvement to be exempted from taxation. 53801

An ordinance adopted or amended under this division shall 53802
designate the specific public infrastructure improvements made, to 53803
be made, or in the process of being made by the municipal 53804
corporation that directly benefit, or that once made will directly 53805
benefit, the parcels for which improvements are declared to be a 53806
public purpose. ~~For the purposes of this division, a public~~ 53807
~~infrastructure improvement directly benefits such a parcel only if~~ 53808
~~a project on the parcel places direct, additional demand on the~~ 53809
~~public infrastructure improvement or, if the public infrastructure~~ 53810
~~improvement has not yet been completed, will place direct,~~ 53811
~~additional demand on the public infrastructure improvement once it~~ 53812
~~is completed.~~ The service payments provided for in section 5709.42 53813
of the Revised Code shall be used to finance the public 53814
infrastructure improvements designated in the ordinance or for the 53815
purpose described in division (D)(1) of this section. 53816

(C) The legislative authority of a municipal corporation may 53817
adopt an ordinance creating an incentive district and declaring 53818
improvements to parcels within the district to be a public purpose 53819
and exempt from taxation as provided in this section. The 53820
ordinance shall delineate the boundary of the district and 53821
specifically identify each parcel within the district. A district 53822
may not include any parcel that is or has been exempted from 53823
taxation under division (B) of this section or that is or has been 53824
within another district created under this division. An ordinance 53825
may create more than one such district, and more than one 53826
ordinance may be adopted under this division. 53827

Not later than thirty days prior to adopting an ordinance 53828

under this division, if the municipal corporation intends to apply 53829
for exemptions from taxation under section 5709.911 of the Revised 53830
Code on behalf of owners of real property located within the 53831
proposed incentive district, the legislative authority of a 53832
municipal corporation shall conduct a public hearing on the 53833
proposed ordinance. Not later than thirty days prior to the public 53834
hearing, the legislative authority shall give notice of the public 53835
hearing and the proposed ordinance by first class mail to every 53836
real property owner whose property is located within the 53837
boundaries of the proposed incentive district that is the subject 53838
of the proposed ordinance. 53839

An ordinance adopted under this division shall specify the 53840
life of the district and the percentage of the improvements to be 53841
exempted and shall designate the public infrastructure 53842
improvements made or to be made that benefit or serve parcels in 53843
the district. The service payments provided for in section 5709.42 53844
of the Revised Code shall be used to finance the designated public 53845
infrastructure improvements or for the purpose described in 53846
division (D)(1) of this section. 53847

An ordinance adopted under this division may authorize the 53848
use of service payments provided for in section 5709.42 of the 53849
Revised Code for the purpose of housing renovations within the 53850
district, provided that the ordinance also designates public 53851
infrastructure improvements that benefit or serve the district, 53852
and that a project within the district places real property in use 53853
for commercial or industrial purposes. Service payments may be 53854
used to finance or support loans, deferred loans, and grants to 53855
persons for the purpose of housing renovations within the 53856
district. The ordinance shall designate the parcels within the 53857
district that are eligible for housing renovation. The ordinance 53858
shall state separately the amounts or the percentages of the 53859
expected aggregate service payments that are designated for each 53860

public infrastructure improvement and for the general purpose of 53861
housing renovations. 53862

Except with the approval of the board of education of each 53863
city, local, or exempted village school district within the 53864
territory of which the district is or will be located, the life of 53865
a district shall not exceed ten years, and the percentage of 53866
improvements to be exempted shall not exceed seventy-five per 53867
cent. With such approval, the life of a district may be not more 53868
than thirty years, and the percentage of improvements to be 53869
exempted may be not more than one hundred per cent. 53870

Approval of a board of education shall be obtained in the 53871
manner provided in division (D) of this section for exemptions 53872
under division (B) of this section, except that the notice to the 53873
board of education shall delineate the boundaries of the district, 53874
specifically identify each parcel within the district, identify 53875
each anticipated improvement in the district, provide an estimate 53876
of the true value in money of each such improvement, specify the 53877
life of the district and the percentage of improvements that would 53878
be exempted, and indicate the date on which the legislative 53879
authority intends to adopt the ordinance. 53880

A municipal corporation shall not adopt an ordinance under 53881
this division after ~~June 30,~~ December 31, 2007. 53882

(D)(1) If the ordinance declaring improvements to a parcel to 53883
be a public purpose or creating an incentive district specifies 53884
that payments in lieu of taxes provided for in section 5709.42 of 53885
the Revised Code shall be paid to the city, local, or exempted 53886
village school district in which the parcel is located in the 53887
amount of the taxes that would have been payable to the school 53888
district if the improvements had not been exempted from taxation, 53889
the percentage of the improvement that may be exempted from 53890
taxation may exceed seventy-five per cent, and the exemption may 53891

be granted for up to thirty years, without the approval of the
board of education as otherwise required under division (D)(2) of
this section.

(2) Improvements with respect to a parcel may be exempted
from taxation under division (B) of this section for up to ten
years or, with the approval under this paragraph of the board of
education of the city, local, or exempted village school district
within which the parcel is located, for up to thirty years. The
percentage of the improvement exempted from taxation may, with
such approval, exceed seventy-five per cent, but shall not exceed
one hundred per cent. Not later than forty-five business days
prior to adopting an ordinance under this section declaring
improvements to be a public purpose 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 adopt an ordinance making that declaration. The
notice shall identify the parcels for which improvements are to be
exempted from taxation, 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 improvement 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 improvement 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 53924
excess of seventy-five per cent, compensation equal in value to a 53925
percentage of the taxes that would be payable on the portion of 53926
the improvement in excess of seventy-five per cent were that 53927
portion to be subject to taxation, or other mutually agreeable 53928
compensation. The board of education shall certify its resolution 53929
to the legislative authority not later than fourteen days prior to 53930
the date the legislative authority intends to adopt the ordinance 53931
as indicated in the notice. ~~If the board of education approves the~~ 53932
~~exemption on the condition that a compensation agreement be~~ 53933
~~negotiated, the board in its resolution shall propose a~~ 53934
~~compensation percentage.~~ If the board of education and the 53935
legislative authority negotiate a mutually acceptable compensation 53936
agreement, the ordinance may declare the improvements a public 53937
purpose for the number of years specified in the ordinance or, in 53938
the case of exemption percentages in excess of seventy-five per 53939
cent, for the exemption percentage specified in the ordinance. In 53940
either case, if the board and the legislative authority fail to 53941
negotiate a mutually acceptable compensation agreement, the 53942
ordinance may declare the improvements a public purpose for not 53943
more than ten years, but shall not exempt more than seventy-five 53944
per cent of the improvements from taxation, ~~or, in the case of an~~ 53945
~~ordinance adopted under division (B) of this section, not more~~ 53946
~~than the estimated percentage of the incremental demand as~~ 53947
~~otherwise prescribed by division (B) of this section if that~~ 53948
~~percentage is less than seventy five per cent.~~ If the board fails 53949
to certify a resolution to the legislative authority within the 53950
time prescribed by this division, the legislative authority 53951
thereupon may adopt the ordinance and may declare the improvements 53952
a public purpose for up to thirty years, or, in the case of 53953
exemption percentages proposed in excess of seventy-five per cent, 53954
for the exemption percentage specified in the ordinance. The 53955
legislative authority may adopt the ordinance at any time after 53956

the board of education certifies its resolution approving the 53957
exemption to the legislative authority, or, if the board approves 53958
the exemption on the condition that a mutually acceptable 53959
compensation agreement be negotiated, at any time after the 53960
compensation agreement is agreed to by the board and the 53961
legislative authority. 53962

(3) If a board of education has adopted a resolution waiving 53963
its right to approve exemptions from taxation and the resolution 53964
remains in effect, approval of exemptions by the board is not 53965
required under this division. If a board of education has adopted 53966
a resolution allowing a legislative authority to deliver the 53967
notice required under ~~this~~ division (D)(2) of this section fewer 53968
than forty-five business days prior to the legislative authority's 53969
adoption of the ordinance, the legislative authority shall deliver 53970
the notice to the board not later than the number of days prior to 53971
such adoption as prescribed by the board in its resolution. If a 53972
board of education adopts a resolution waiving its right to 53973
approve agreements or shortening the notification period, the 53974
board shall certify a copy of the resolution to the legislative 53975
authority. If the board of education rescinds such a resolution, 53976
it shall certify notice of the rescission to the legislative 53977
authority. 53978

(4) If the legislative authority is not required by division 53979
(D)(1), (2), or (3) of this section to notify the board of 53980
education of the legislative authority's intent to declare 53981
improvements to be a public purpose, the legislative authority 53982
shall comply with the notice requirements imposed under section 53983
5709.83 of the Revised Code, unless the board has adopted a 53984
resolution under that section waiving its right to receive such a 53985
notice. 53986

(E) An exemption from taxation granted under this section 53987
commences with the tax year ~~in which an improvement first appears~~ 53988

~~on the tax list and duplicate of real and public utility property~~ 53989
~~and that begins after the effective date of specified in the~~ 53990
ordinance. Except as otherwise provided in this division, the 53991
exemption ends on the date specified in the ordinance as the date 53992
the improvement ceases to be a public purpose or the incentive 53993
district expires, or ends on the date on which the public 53994
infrastructure improvements and housing renovations are paid in 53995
full from the municipal public improvement tax increment 53996
equivalent fund established under division (A) of section 5709.43 53997
of the Revised Code, whichever occurs first. The exemption of an 53998
improvement with respect to a parcel may end on a later date, as 53999
specified in the ordinance, if the legislative authority and the 54000
board of education of the city, local, or exempted village school 54001
district within which the parcel is located have entered into a 54002
compensation agreement under section 5709.82 of the Revised Code 54003
with respect to the improvement or district and the board of 54004
education has approved the term of the exemption under division 54005
(D)(2) of this section, but in no case shall the improvement be 54006
exempted from taxation for more than thirty years. Exemptions 54007
shall be claimed and allowed in the same manner as in the case of 54008
other real property exemptions. If an exemption status changes 54009
during a year, the procedure for the apportionment of the taxes 54010
for that year is the same as in the case of other changes in tax 54011
exemption status during the year. 54012

(F) Additional municipal financing of public infrastructure 54013
improvements and housing renovations may be provided by any 54014
methods that the municipal corporation may otherwise use for 54015
financing such improvements. If the municipal corporation issues 54016
bonds or notes to finance the public infrastructure improvements 54017
and housing renovations and pledges money from the municipal 54018
public improvement tax increment equivalent fund to pay the 54019
interest on and principal of the bonds or notes, the bonds or 54020
notes are not subject to Chapter 133. of the Revised Code. 54021

(G) The municipal corporation, not later than fifteen days 54022
after the adoption of an ordinance under this section, shall 54023
submit to the director of development a copy of the ordinance. On 54024
or before the thirty-first day of March of each year, the 54025
municipal corporation shall submit a status report to the director 54026
of development. The report shall indicate, in the manner 54027
prescribed by the director, the progress of the project during 54028
each year that an exemption remains in effect, including a summary 54029
of the receipts from service payments in lieu of taxes; 54030
expenditures of money from the funds created under section 5709.43 54031
of the Revised Code; a description of the public infrastructure 54032
improvements and housing renovations financed with such 54033
expenditures; and a quantitative summary of changes in employment 54034
and private investment resulting from each project. 54035

(H) Nothing in this section shall be construed to prohibit a 54036
legislative authority from declaring to be a public purpose 54037
improvements with respect to more than one parcel. 54038

Sec. 5709.41. (A) As used in this section: 54039

(1) "Business day" means a day of the week excluding 54040
Saturday, Sunday, and a legal holiday as defined under section 54041
1.14 of the Revised Code. 54042

(2) "Improvement" means the increase in assessed value of any 54043
parcel of property subsequent to the acquisition of the parcel by 54044
a municipal corporation engaged in urban redevelopment. 54045

(B) The legislative authority of a municipal corporation, by 54046
ordinance, may declare to be a public purpose any improvement to a 54047
parcel of real property if both of the following apply: 54048

(1) The municipal corporation held fee title to the parcel 54049
prior to the adoption of the ordinance; 54050

(2) The parcel is leased, or the fee of the parcel is 54051

conveyed, to any person either before or after adoption of the ordinance. 54052
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Improvements used or to be used for residential purposes may be declared a public purpose under this section only if the parcel is located in a blighted area of an impacted city as those terms are defined in section 1728.01 of the Revised Code. 54054
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(C) Except as otherwise provided in division (C)(1), (2), or (3) of this section, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation. The ordinance shall specify the percentage of the improvement to be exempted from taxation. 54058
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(1) If the ordinance declaring improvements to a parcel to be a public purpose 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, the percentage of the improvement that may be exempted from taxation may exceed seventy-five per cent, and the exemption may be granted for up to thirty years, without the approval of the board of education as otherwise required under division (C)(2) of this section. 54063
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(2) Improvements may be exempted from taxation for up to ten years or, with the approval of the board of education of the city, local, or exempted village school district within the territory of which the improvements are or will be located, for up to thirty years. The percentage of the improvement exempted from taxation may, with such approval, exceed seventy-five per cent, but shall 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 54074
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division, the legislative authority shall deliver to the board of 54083
education a notice stating its intent to declare improvements to 54084
be a public purpose under this section. The notice shall describe 54085
the parcel and the improvements, provide an estimate of the true 54086
value in money of the improvements, specify the period for which 54087
the improvements would be exempted from taxation and the 54088
percentage of the improvements that would be exempted, and 54089
indicate the date on which the legislative authority intends to 54090
adopt the ordinance. The board of education, by resolution adopted 54091
by a majority of the board, may approve the exemption for the 54092
period or for the exemption percentage specified in the notice, 54093
may disapprove the exemption for the number of years in excess of 54094
ten, may disapprove the exemption for the percentage of the 54095
improvements to be exempted in excess of seventy-five per cent, or 54096
both, or may approve the exemption on the condition that the 54097
legislative authority and the board negotiate an agreement 54098
providing for compensation to the school district equal in value 54099
to a percentage of the amount of taxes exempted in the eleventh 54100
and subsequent years of the exemption period, or, in the case of 54101
exemption percentages in excess of seventy-five per cent, 54102
compensation equal in value to a percentage of the taxes that 54103
would be payable on the portion of the improvement in excess of 54104
seventy-five per cent were that portion to be subject to taxation, 54105
or other mutually agreeable compensation. The board of education 54106
shall certify its resolution to the legislative authority not 54107
later than fourteen days prior to the date the legislative 54108
authority intends to adopt the ordinance as indicated in the 54109
notice. ~~If the board of education approves the exemption on the~~ 54110
~~condition that a compensation agreement be negotiated, the board~~ 54111
~~in its resolution shall propose a compensation percentage.~~ If the 54112
board of education and the legislative authority negotiate a 54113
mutually acceptable compensation agreement, the ordinance may 54114
declare the improvements a public purpose for the number of years 54115

specified in the ordinance or, in the case of exemption 54116
percentages in excess of seventy-five per cent, for the exemption 54117
percentage specified in the ordinance. In either case, if the 54118
board and the legislative authority fail to negotiate a mutually 54119
acceptable compensation agreement, the ordinance may declare the 54120
improvements a public purpose for not more than ten years, but 54121
shall not exempt more than seventy-five per cent of the 54122
improvements from taxation. If the board fails to certify a 54123
resolution to the legislative authority within the time prescribed 54124
by this division, the legislative authority thereupon may adopt 54125
the ordinance and may declare the improvements a public purpose 54126
for up to thirty years. The legislative authority may adopt the 54127
ordinance at any time after the board of education certifies its 54128
resolution approving the exemption to the legislative authority, 54129
or, if the board approves the exemption on the condition that a 54130
mutually acceptable compensation agreement be negotiated, at any 54131
time after the compensation agreement is agreed to by the board 54132
and the legislative authority. 54133

(3) If a board of education has adopted a resolution waiving 54134
its right to approve exemptions from taxation and the resolution 54135
remains in effect, approval of exemptions by the board is not 54136
required under this division. If a board of education has adopted 54137
a resolution allowing a legislative authority to deliver the 54138
notice required under ~~this~~ division (C)(2) of this section fewer 54139
than forty-five business days prior to the legislative authority's 54140
adoption of the ordinance, the legislative authority shall deliver 54141
the notice to the board not later than the number of days prior to 54142
such adoption as prescribed by the board in its resolution. If a 54143
board of education adopts a resolution waiving its right to 54144
approve exemptions or shortening the notification period, the 54145
board shall certify a copy of the resolution to the legislative 54146
authority. If the board of education rescinds such a resolution, 54147
it shall certify notice of the rescission to the legislative 54148

authority. 54149

(4) If the legislative authority is not required by division 54150
(C)(1), (2), or (3) of this section to notify the board of 54151
education of the legislative authority's intent to declare 54152
improvements to be a public purpose, the legislative authority 54153
shall comply with the notice requirements imposed under section 54154
5709.83 of the Revised Code, unless the board has adopted a 54155
resolution under that section waiving its right to receive such a 54156
notice. 54157

(D) ~~The~~ An exemption from taxation granted under this section 54158
commences on with the tax year specified in the ordinance that 54159
begins after the effective date of the ordinance and ends on the 54160
date specified in the ordinance as the date the improvement ceases 54161
to be a public purpose. The exemption shall be claimed and allowed 54162
in the same or a similar manner as in the case of other real 54163
property exemptions. If an exemption status changes during a tax 54164
year, the procedure for the apportionment of the taxes for that 54165
year is the same as in the case of other changes in tax exemption 54166
status during the year. 54167

(E) A municipal corporation, not later than fifteen days 54168
after the adoption of an ordinance granting a tax exemption under 54169
this section, shall submit to the director of development a copy 54170
of the ordinance. On or before the thirty-first day of March each 54171
year, the municipal corporation shall submit a status report to 54172
the director of development outlining the progress of the project 54173
during each year that the exemption remains in effect. 54174

Sec. 5709.73. (A) As used in this section and section 5709.74 54175
of the Revised Code: 54176

(1) "Business day" means a day of the week excluding 54177
Saturday, Sunday, and a legal holiday as defined in section 1.14 54178
of the Revised Code. 54179

(2) "Further improvements" or "improvements" means the increase in the ~~true~~ assessed value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of a resolution adopted under this section were it not for the exemption granted by that resolution. For purposes of division (B) of this section, "improvements" do not include any property used or to be used for residential purposes.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township.

(5) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

(B) A board of township trustees may, by unanimous vote, adopt a resolution that declares to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the township. Except as otherwise provided in division (D) of this section, the resolution may exempt from real property taxation not more than seventy-five per cent of further improvements to a parcel of land which directly benefits from such public infrastructure improvements; ~~the percentage exempted shall not, except as otherwise provided in division (D) of this section, exceed the estimated percentage of the incremental demand placed on the public infrastructure improvements that is directly attributable to the exempted improvement. For the purposes of this division, a public infrastructure improvement directly benefits a parcel of land only if a project on the parcel places direct, additional demand on the~~

~~public infrastructure improvement, or, if the public~~ 54211
~~infrastructure improvement has not yet been constructed, will~~ 54212
~~place direct, additional demand on the public infrastructure~~ 54213
~~improvement when completed.~~ The resolution shall specify the 54214
percentage of the further improvements to be exempted. 54215

(C) A board of township trustees may adopt, by unanimous 54216
vote, a resolution creating an incentive district and declaring 54217
improvements to parcels within the district to be a public purpose 54218
and exempt from taxation as provided in this section. The district 54219
shall be located within the unincorporated area of the township 54220
and shall not include any territory that is included within a 54221
district created under division (B) of section 5709.78 of the 54222
Revised Code. The resolution shall delineate the boundary of the 54223
district and specifically identify each parcel within the 54224
district. A district may not include any parcel that is or has 54225
been exempted from taxation under division (B) of this section or 54226
that is or has been within another district created under this 54227
division. A resolution may create more than one such district, and 54228
more than one resolution may be adopted under this division. 54229

Not later than thirty days prior to adopting a resolution 54230
under this division, if the township intends to apply for 54231
exemptions from taxation under section 5709.911 of the Revised 54232
Code on behalf of owners of real property located within the 54233
proposed incentive district, the board shall conduct a public 54234
hearing on the proposed resolution. Not later than thirty days 54235
prior to the public hearing, the board shall give notice of the 54236
public hearing and the proposed resolution by first class mail to 54237
every real property owner whose property is located within the 54238
boundaries of the proposed incentive district that is the subject 54239
of the proposed resolution. 54240

A resolution under this division shall specify the life of 54241
the district and the percentage of the improvements to be exempted 54242

and shall designate the public infrastructure improvements made or 54243
to be made that benefit or serve parcels in the district. 54244

A resolution adopted under this division may authorize the 54245
use of service payments provided for in section 5709.74 of the 54246
Revised Code for the purpose of housing renovations within the 54247
district, provided that the resolution also designates public 54248
infrastructure improvements that benefit or serve the district, 54249
and that a project within the district places real property in use 54250
for commercial or industrial purposes. Service payments may be 54251
used to finance or support loans, deferred loans, and grants to 54252
persons for the purpose of housing renovations within the 54253
district. The resolution shall designate the parcels within the 54254
district that are eligible for housing renovations. The resolution 54255
shall state separately the amount or the percentages of the 54256
expected aggregate service payments that are designated for each 54257
public infrastructure improvement and for the purpose of housing 54258
renovations. 54259

Except with the approval of the board of education of each 54260
city, local, or exempted village school district within the 54261
territory of which the district is or will be located, the life of 54262
a district shall not exceed ten years, and the percentage of 54263
improvements to be exempted shall not exceed seventy-five per 54264
cent. With such approval, the life of a district may be not more 54265
than thirty years, and the percentage of improvements to be 54266
exempted may be not more than one hundred per cent. 54267

Approval of a board of education shall be obtained in the 54268
manner provided in division (D) of this section for exemptions 54269
under division (B) of this section, except that the notice to the 54270
board of education shall delineate the boundaries of the district, 54271
specifically identify each parcel within the district, identify 54272
each anticipated improvement in the district, provide an estimate 54273
of the true value in money of each such improvement, specify the 54274

life of the district and the percentage of improvements that would 54275
be exempted, and indicate the date on which the board of township 54276
trustees intends to adopt the resolution. 54277

A board of township trustees shall not adopt a resolution 54278
under this division after June 30, 2007. 54279

(D)(1) If the resolution declaring improvements to a parcel 54280
to be a public purpose or creating an incentive district specifies 54281
that payments in lieu of taxes provided for in section 5709.74 of 54282
the Revised Code shall be paid to the city, local, or exempted 54283
village school district in which the parcel is located in the 54284
amount of the taxes that would have been payable to the school 54285
district if the improvements had not been exempted from taxation, 54286
the percentage of the improvement that may be exempted from 54287
taxation may exceed seventy-five per cent, and the exemption may 54288
be granted for up to thirty years, without the approval of the 54289
board of education as otherwise required under division (D)(2) of 54290
this section. 54291

(2) Improvements with respect to a parcel may be exempted 54292
from taxation under division (B) of this section for up to ten 54293
years or, with the approval of the board of education of the city, 54294
local, or exempted village school district within which the parcel 54295
is located, for up to thirty years. The percentage of the 54296
improvements exempted from taxation may, with such approval, 54297
exceed seventy-five per cent, but shall not exceed one hundred per 54298
cent. Not later than forty-five business days prior to adopting a 54299
resolution under this section declaring improvements to be a 54300
public purpose that is subject to approval by a board of education 54301
under this division, the board of trustees shall deliver to the 54302
board of education a notice stating its intent to adopt a 54303
resolution making that declaration. The notice shall identify the 54304
parcels for which improvements are to be exempted from taxation, 54305
provide an estimate of the true value in money of the 54306

improvements, specify the period for which the improvements would 54307
be exempted from taxation and the percentage of the improvements 54308
that would be exempted, and indicate the date on which the board 54309
of trustees intends to adopt the resolution. The board of 54310
education, by resolution adopted by a majority of the board, may 54311
approve the exemption for the period or for the exemption 54312
percentage specified in the notice, may disapprove the exemption 54313
for the number of years in excess of ten, may disapprove the 54314
exemption for the percentage of the improvements to be exempted in 54315
excess of seventy-five per cent, or both, or may approve the 54316
exemption on the condition that the board of trustees and the 54317
board of education negotiate an agreement providing for 54318
compensation to the school district equal in value to a percentage 54319
of the amount of taxes exempted in the eleventh and subsequent 54320
years of the exemption period or, in the case of exemption 54321
percentages in excess of seventy-five per cent, compensation equal 54322
in value to a percentage of the taxes that would be payable on the 54323
portion of the improvements in excess of seventy-five per cent 54324
were that portion to be subject to taxation, or other mutually 54325
agreeable compensation. The board of education shall certify its 54326
resolution to the board of trustees not later than fourteen days 54327
prior to the date the board of trustees intends to adopt the 54328
resolution as indicated in the notice. ~~If the board of education~~ 54329
~~approves the exemption on the condition that a compensation~~ 54330
~~agreement be negotiated, the board of education in its resolution~~ 54331
~~shall propose a compensation percentage.~~ If the board of education 54332
and the board of trustees negotiate a mutually acceptable 54333
compensation agreement, the resolution may declare the 54334
improvements a public purpose for the number of years specified in 54335
the resolution or, in the case of exemption percentages in excess 54336
of seventy-five per cent, for the exemption percentage specified 54337
in the resolution. In either case, if the board of education and 54338
the board of trustees fail to negotiate a mutually acceptable 54339

compensation agreement, the resolution may declare the 54340
improvements a public purpose for not more than ten years, but 54341
shall not exempt more than seventy-five per cent of the 54342
improvements from taxation, ~~or, in the case of a resolution~~ 54343
~~adopted under division (B) of this section, not more than the~~ 54344
~~estimated percentage of the incremental demand as otherwise~~ 54345
~~prescribed by division (B) of this section if that percentage is~~ 54346
~~less than seventy five per cent.~~ If the board of education fails 54347
to certify a resolution to the board of trustees within the time 54348
prescribed by this section, the board of trustees thereupon may 54349
adopt the resolution and may declare the improvements a public 54350
purpose for up to thirty years or, in the case of exemption 54351
percentages proposed in excess of seventy-five per cent, for the 54352
exemption percentage specified in the resolution. The board of 54353
township trustees may adopt the resolution at any time after the 54354
board of education certifies its resolution approving the 54355
exemption to the board of township trustees, or, if the board of 54356
education approves the exemption on the condition that a mutually 54357
acceptable compensation agreement be negotiated, at any time after 54358
the compensation agreement is agreed to by the board of education 54359
and the board of township trustees. 54360

(3) If a board of education has adopted a resolution waiving 54361
its right to approve exemptions from taxation and the resolution 54362
remains in effect, approval of such exemptions by the board of 54363
education is not required under this division. If a board of 54364
education has adopted a resolution allowing a board of township 54365
trustees to deliver the notice required under ~~this~~ division (D)(2) 54366
of this section fewer than forty-five business days prior to 54367
adoption of the resolution by the board of township trustees, the 54368
board of township trustees shall deliver the notice to the board 54369
of education not later than the number of days prior to such 54370
adoption as prescribed by the board of education in its 54371
resolution. If a board of education adopts a resolution waiving 54372

its right to approve exemptions or shortening the notification 54373
period, the board of education shall certify a copy of the 54374
resolution to the board of township trustees. If the board of 54375
education rescinds such a resolution, it shall certify notice of 54376
the rescission to the board of township trustees. 54377

If the board of trustees is not required by this division to 54378
notify the board of education of the board of trustees' intent to 54379
declare improvements to be a public purpose, the board of trustees 54380
shall comply with the notice requirements imposed under section 54381
5709.83 of the Revised Code before taking formal action to adopt 54382
the resolution making that declaration, unless the board of 54383
education has adopted a resolution under that section waiving its 54384
right to receive such a notice. 54385

(E) An exemption from taxation granted under this section 54386
commences with the tax year ~~in which an improvement first appears~~ 54387
~~on the tax list and duplicate of real and public utility property~~ 54388
~~and specified in the resolution~~ that begins after the effective 54389
date of the resolution. Except as otherwise provided in this 54390
division, the exemption ends on the date specified in the 54391
resolution as the date the improvement ceases to be a public 54392
purpose or the incentive district expires, or ends on the date on 54393
which the public infrastructure improvements and housing 54394
renovations are paid in full from the township public improvement 54395
tax increment equivalent fund established under section 5709.75 of 54396
the Revised Code, whichever occurs first. The exemption of an 54397
improvement with respect to a parcel may end on a later date, as 54398
specified in the resolution, if the board of township trustees and 54399
the board of education of the city, local, or exempted village 54400
school district within which the parcel is located have entered 54401
into a compensation agreement under section 5709.82 of the Revised 54402
Code with respect to the improvement or district and the board of 54403
education has approved the term of the exemption under division 54404

(D)(2) of this section, but in no case shall the improvement be 54405
exempted from taxation for more than thirty years. The board of 54406
township trustees may, by majority vote, adopt a resolution 54407
permitting the township to enter into such agreements as the board 54408
finds necessary or appropriate to provide for the construction or 54409
undertaking of public infrastructure improvements and housing 54410
renovations. Any exemption shall be claimed and allowed in the 54411
same or a similar manner as in the case of other real property 54412
exemptions. If an exemption status changes during a tax year, the 54413
procedure for the apportionment of the taxes for that year is the 54414
same as in the case of other changes in tax exemption status 54415
during the year. 54416

(F) The board of township trustees may issue the notes of the 54417
township to finance all costs pertaining to the construction or 54418
undertaking of public infrastructure improvements and housing 54419
renovations made pursuant to this section. The notes shall be 54420
signed by the board and attested by the signature of the township 54421
clerk, shall bear interest not to exceed the rate provided in 54422
section 9.95 of the Revised Code, and are not subject to Chapter 54423
133. of the Revised Code. The resolution authorizing the issuance 54424
of the notes shall pledge the funds of the township public 54425
improvement tax increment equivalent fund established pursuant to 54426
section 5709.75 of the Revised Code to pay the interest on and 54427
principal of the notes. The notes, which may contain a clause 54428
permitting prepayment at the option of the board, shall be offered 54429
for sale on the open market or given to the vendor or contractor 54430
if no sale is made. 54431

(G) The township, not later than fifteen days after the 54432
adoption of a resolution under this section, shall submit to the 54433
director of development a copy of the resolution. On or before the 54434
thirty-first day of March of each year, the township shall submit 54435
a status report to the director of development. The report shall 54436

indicate, in the manner prescribed by the director, the progress 54437
of the project during each year that the exemption remains in 54438
effect, including a summary of the receipts from service payments 54439
in lieu of taxes; expenditures of money from funds created under 54440
section 5709.75 of the Revised Code; a description of the public 54441
infrastructure improvements and housing renovations financed with 54442
such expenditures; and a quantitative summary of changes in 54443
private investment resulting from each project. 54444

(H) Nothing in this section shall be construed to prohibit a 54445
board of township trustees from declaring to be a public purpose 54446
improvements with respect to more than one parcel. 54447

(I) A board of township trustees that adopted a resolution 54448
under this section prior to July 21, 1994, may amend that 54449
resolution to include any additional public infrastructure 54450
improvement. A board of township trustees that seeks by such an 54451
amendment to utilize money from its township public improvement 54452
tax increment equivalent fund for land acquisition in aid of 54453
industry, commerce, distribution, or research, demolition on 54454
private property, or stormwater and flood remediation projects may 54455
do so provided that the board currently is a party to a 54456
hold-harmless agreement with the board of education of the city, 54457
local, or exempted village school district within the territory of 54458
which are located the parcels that are subject to an exemption. 54459
For the purposes of this division, a "hold-harmless agreement" 54460
means an agreement under which the board of township trustees 54461
agrees to compensate the school district for one hundred per cent 54462
of the tax revenue that the school district would have received 54463
from further improvements to parcels designated in the resolution 54464
were it not for the exemption granted by the resolution. 54465

Sec. 5709.77. As used in sections 5709.77 to 5709.81 of the 54466
Revised Code: 54467

(A) "Business day" means a day of the week excluding 54468
Saturday, Sunday, and a legal holiday as defined in section 1.14 54469
of the Revised Code. 54470

(B) "Fund" means to provide for the payment of the debt 54471
service on and the expenses relating to an outstanding obligation 54472
of the county. 54473

(C) "Housing renovation" means a project carried out for 54474
residential purposes. 54475

(D) "Improvement" means the increase in the ~~true~~ assessed 54476
value of real property that would first appear on the tax list and 54477
duplicate of real and public utility property after the effective 54478
date of a resolution adopted under section 5709.78 of the Revised 54479
Code were it not for the exemption granted by that resolution. 54480
~~"Improvement" does not include a public infrastructure~~ 54481
~~improvement.~~ For purposes of division (A) of section 5709.78 of 54482
the Revised Code, "improvement" does not include any property used 54483
or to be used for residential purposes. 54484

(E) "Incentive district" has the same meaning as in section 54485
5709.40 of the Revised Code, except that a blighted area is in the 54486
unincorporated territory of a county. 54487

(F) "Refund" means to fund and retire an outstanding 54488
obligation of the county. 54489

(G) "Project" and "public infrastructure improvement" have 54490
the same meanings as in section 5709.40 of the Revised Code. 54491

Sec. 5709.78. (A) A board of county commissioners may, by 54492
resolution, declare improvements to certain parcels of real 54493
property located in the unincorporated territory of the county to 54494
be a public purpose. Except as otherwise provided in division (C) 54495
of this section, not more than seventy-five per cent of an 54496
improvement thus declared to be a public purpose may be exempted 54497

from real property taxation; ~~the percentage exempted shall not,~~ 54498
~~except as otherwise provided in those divisions, exceed the~~ 54499
~~estimated percentage of the incremental demand placed on the~~ 54500
~~public infrastructure improvements that is directly attributable~~ 54501
~~to the exempted improvement.~~ The resolution shall specify the 54502
percentage of the improvement to be exempted. 54503

A resolution adopted under this division shall designate the 54504
specific public infrastructure improvements made, to be made, or 54505
in the process of being made by the county that directly benefit, 54506
or that once made will directly benefit, the parcels for which 54507
improvements are declared to be a public purpose. ~~For the purposes~~ 54508
~~of this division, a public infrastructure improvement directly~~ 54509
~~benefits such a parcel only if a project on the parcel places~~ 54510
~~direct, additional demand on the public infrastructure improvement~~ 54511
~~or, if the public infrastructure improvement has not yet been~~ 54512
~~completed, will place direct, additional demand on the public~~ 54513
~~infrastructure improvement once it is completed.~~ The service 54514
payments provided for in section 5709.79 of the Revised Code shall 54515
be used to finance the public infrastructure improvements 54516
designated in the resolution. 54517

(B) A board of county commissioners may adopt a resolution 54518
creating an incentive district and declaring improvements to 54519
parcels within the district to be a public purpose and exempt from 54520
taxation as provided in this section. The district shall be 54521
located within the unincorporated territory of the county and 54522
shall not include any territory that is included within a district 54523
created under division (C) of section 5709.73 of the Revised Code. 54524
The resolution shall delineate the boundary of the district and 54525
specifically identify each parcel within the district. A district 54526
may not include any parcel that is or has been exempted from 54527
taxation under division (A) of this section or that is or has been 54528
within another district created under this division. A resolution 54529

may create more than one such district, and more than one 54530
resolution may be adopted under this division. 54531

Not later than thirty days prior to adopting a resolution 54532
under this division, if the county intends to apply for exemptions 54533
from taxation under section 5709.911 of the Revised Code on behalf 54534
of owners of real property located within the proposed incentive 54535
district, the board of county commissioners shall conduct a public 54536
hearing on the proposed resolution. Not later than thirty days 54537
prior to the public hearing, the board shall give notice of the 54538
public hearing and the proposed resolution by first class mail to 54539
every real property owner whose property is located within the 54540
boundaries of the proposed incentive district that is the subject 54541
of the proposed resolution. The board also shall provide the 54542
notice by first class mail to the clerk of each township in which 54543
the proposed incentive district will be located. 54544

A resolution under this division shall specify the life of 54545
the district and the percentage of the improvements to be exempted 54546
and shall designate the public infrastructure improvements made or 54547
to be made that benefit or serve parcels in the district. 54548

A resolution adopted under this division may authorize the 54549
use of service payments provided for in section 5709.79 of the 54550
Revised Code for the purpose of housing renovations within the 54551
district, provided that the resolution also designates public 54552
infrastructure improvements that benefit or serve the district, 54553
and that a project within the district places real property in use 54554
for commercial or industrial purposes. Service payments may be 54555
used to finance or support loans, deferred loans, and grants to 54556
persons for the purpose of housing renovations within the 54557
district. The resolution shall designate the parcels within the 54558
district that are eligible for housing renovations. The resolution 54559
shall state separately the amount or the percentages of the 54560
expected aggregate service payments that are designated for each 54561

public infrastructure improvement and for the purpose of housing 54562
renovations. 54563

Except with the approval of the board of education of each 54564
city, local, or exempted village school district within the 54565
territory of which the district is or will be located, the life of 54566
a district shall not exceed ten years, and the percentage of 54567
improvements to be exempted shall not exceed seventy-five per 54568
cent. With such approval, the life of a district may be not more 54569
than thirty years, and the percentage of improvements to be 54570
exempted may be not more than one hundred per cent. 54571

Approval of a board of education shall be obtained in the 54572
manner provided in division (C) of this section for exemptions 54573
under division (A) of this section, except that the notice to the 54574
board of education shall delineate the boundaries of the district, 54575
specifically identify each parcel within the district, identify 54576
each anticipated improvement in the district, provide an estimate 54577
of the true value in money of each such improvement, specify the 54578
life of the district and the percentage of improvements that would 54579
be exempted, and indicate the date on which the board of county 54580
commissioners intends to adopt the resolution. 54581

A board of county commissioners shall not adopt a resolution 54582
under this division after June 30, 2007. 54583

(C)(1) If the resolution declaring improvements to a parcel 54584
to be a public purpose or creating an incentive district specifies 54585
that payments in lieu of taxes provided for in section 5709.79 of 54586
the Revised Code shall be paid to the city, local, or exempted 54587
village school district in which the parcel is located in the 54588
amount of the taxes that would have been payable to the school 54589
district if the improvements had not been exempted from taxation, 54590
the percentage of the improvement that may be exempted from 54591
taxation may exceed seventy-five per cent, and the exemption may 54592

be granted for up to thirty years, without the approval of the 54593
board of education as otherwise required under division (C)(2) of 54594
this section. 54595

(2) Improvements with respect to a parcel may be exempted 54596
from taxation under division (A) of this section for up to ten 54597
years or, with the approval of the board of education of the city, 54598
local, or exempted village school district within which the parcel 54599
is located, for up to thirty years. The percentage of the 54600
improvements exempted from taxation may, with such approval, 54601
exceed seventy-five per cent, but shall not exceed one hundred per 54602
cent. Not later than forty-five business days prior to adopting a 54603
resolution under this section declaring improvements to be a 54604
public purpose that is subject to the approval of a board of 54605
education under this division, the board of county commissioners 54606
shall deliver to the board of education a notice stating its 54607
intent to adopt a resolution making that declaration. The notice 54608
shall identify the parcels for which improvements are to be 54609
exempted from taxation, provide an estimate of the true value in 54610
money of the improvements, specify the period for which the 54611
improvements would be exempted from taxation and the percentage of 54612
the improvements that would be exempted, and indicate the date on 54613
which the board of county commissioners intends to adopt the 54614
resolution. The board of education, by resolution adopted by a 54615
majority of the board, may approve the exemption for the period or 54616
for the exemption percentage specified in the notice, may 54617
disapprove the exemption for the number of years in excess of ten, 54618
may disapprove the exemption for the percentage of the 54619
improvements to be exempted in excess of seventy-five per cent, or 54620
both, or may approve the exemption on the condition that the board 54621
of county commissioners and the board of education negotiate an 54622
agreement providing for compensation to the school district equal 54623
in value to a percentage of the amount of taxes exempted in the 54624
eleventh and subsequent years of the exemption period or, in the 54625

case of exemption percentages in excess of seventy-five per cent, 54626
compensation equal in value to a percentage of the taxes that 54627
would be payable on the portion of the improvements in excess of 54628
seventy-five per cent were that portion to be subject to taxation, 54629
or other mutually agreeable compensation. The board of education 54630
shall certify its resolution to the board of county commissioners 54631
not later than fourteen days prior to the date the board of county 54632
commissioners intends to adopt its resolution as indicated in the 54633
notice. ~~If the board of education approves the exemption on the~~ 54634
~~condition that a compensation agreement be negotiated, the board~~ 54635
~~of education in its resolution shall propose a compensation~~ 54636
~~percentage.~~ If the board of education and the board of county 54637
commissioners negotiate a mutually acceptable compensation 54638
agreement, the resolution of the board of county commissioners may 54639
declare the improvements a public purpose for the number of years 54640
specified in that resolution or, in the case of exemption 54641
percentages in excess of seventy-five per cent, for the exemption 54642
percentage specified in the resolution. In either case, if the 54643
board of education and the board of county commissioners fail to 54644
negotiate a mutually acceptable compensation agreement, the 54645
resolution may declare the improvements a public purpose for not 54646
more than ten years, but shall not exempt more than seventy-five 54647
per cent of the improvements from taxation, ~~or, in the case of a~~ 54648
~~resolution adopted under division (A) of this section, not more~~ 54649
~~than the estimated percentage of the incremental demand as~~ 54650
~~otherwise prescribed by division (A) of this section if that~~ 54651
~~percentage is less than seventy five per cent.~~ If the board of 54652
education fails to certify a resolution to the board of county 54653
commissioners within the time prescribed by this section, the 54654
board of county commissioners thereupon may adopt the resolution 54655
and may declare the improvements a public purpose for up to thirty 54656
years or, in the case of exemption percentages proposed in excess 54657
of seventy-five per cent, for the exemption percentage specified 54658

in the resolution. The board of county commissioners may adopt the 54659
resolution at any time after the board of education certifies its 54660
resolution approving the exemption to the board of county 54661
commissioners, or, if the board of education approves the 54662
exemption on the condition that a mutually acceptable compensation 54663
agreement be negotiated, at any time after the compensation 54664
agreement is agreed to by the board of education and the board of 54665
county commissioners. 54666

~~(2)~~(3) If a board of education has adopted a resolution 54667
waiving its right to approve exemptions from taxation and the 54668
resolution remains in effect, approval of such exemptions by the 54669
board of education is not required under division (C)~~(1)~~(2) of 54670
this section. If a board of education has adopted a resolution 54671
allowing a board of county commissioners to deliver the notice 54672
required under division (C)~~(1)~~(2) of this section fewer than 54673
forty-five business days prior to approval of the resolution by 54674
the board of county commissioners, the board of county 54675
commissioners shall deliver the notice to the board of education 54676
not later than the number of days prior to such approval as 54677
prescribed by the board of education in its resolution. If a board 54678
of education adopts a resolution waiving its right to approve 54679
exemptions or shortening the notification period, the board of 54680
education shall certify a copy of the resolution to the board of 54681
county commissioners. If the board of education rescinds such a 54682
resolution, it shall certify notice of the rescission to the board 54683
of county commissioners. 54684

(D) An exemption from taxation granted under this section 54685
commences with the tax year ~~in which an improvement first appears~~ 54686
~~on the tax list and duplicate of real and public utility property~~ 54687
~~and specified in the resolution~~ that begins after the effective 54688
date of the resolution. Except as otherwise provided in this 54689
division, the exemption ends on the date specified in the 54690

resolution as the date the improvement ceases to be a public 54691
purpose or the incentive district expires, or ends on the date on 54692
which the county can no longer require annual service payments in 54693
lieu of taxes under section 5709.79 of the Revised Code, whichever 54694
occurs first. The exemption of an improvement with respect to a 54695
parcel may end on a later date, as specified in the resolution, if 54696
the board of commissioners and the board of education of the city, 54697
local, or exempted village school district within which the parcel 54698
is located have entered into a compensation agreement under 54699
section 5709.82 of the Revised Code with respect to the 54700
improvement or district and the board of education has approved 54701
the term of the exemption under division (C)~~(1)~~(2) of this 54702
section, but in no case shall the improvement be exempted from 54703
taxation for more than thirty years. Exemptions shall be claimed 54704
and allowed in the same or a similar manner as in the case of 54705
other real property exemptions. If an exemption status changes 54706
during a tax year, the procedure for the apportionment of the 54707
taxes for that year is the same as in the case of other changes in 54708
tax exemption status during the year. 54709

(E) If the board of county commissioners is not required by 54710
this section to notify the board of education of the board of 54711
county commissioners' intent to declare improvements to be a 54712
public purpose, the board of county commissioners shall comply 54713
with the notice requirements imposed under section 5709.83 of the 54714
Revised Code before taking formal action to adopt the resolution 54715
making that declaration, unless the board of education has adopted 54716
a resolution under that section waiving its right to receive such 54717
a notice. 54718

(F) The county, not later than fifteen days after the 54719
adoption of a resolution under this section, shall submit to the 54720
director of development a copy of the resolution. On or before the 54721
thirty-first day of March of each year, the county shall submit a 54722

status report to the director of development. The report shall 54723
indicate, in the manner prescribed by the director, the progress 54724
of the project during each year that an exemption remains in 54725
effect, including a summary of the receipts from service payments 54726
in lieu of taxes; expenditures of money from funds created under 54727
section 5709.75 of the Revised Code; a description of the public 54728
infrastructure improvements and housing renovations financed with 54729
such expenditures; and a quantitative summary of changes in 54730
employment and private investment resulting from each project. 54731

(G) Nothing in this section shall be construed to prohibit a 54732
board of county commissioners from declaring to be a public 54733
purpose improvements with respect to more than one parcel. 54734

Sec. 5711.21. (A) In assessing taxable property the assessor 54735
shall be governed by the rules of assessment prescribed by 54736
sections 5711.01 to 5711.36 of the Revised Code. Wherever any 54737
taxable property is required to be assessed at its true value in 54738
money or at any percentage of true value, the assessor shall be 54739
guided by the statements contained in the taxpayer's return and 54740
such other rules and evidence as will enable the assessor to 54741
arrive at such true value. Wherever the income yield of taxable 54742
property is required to be assessed, and the method of determining 54743
between income and return or distribution of principal, or that of 54744
allocating expenses in determining net income, or that of 54745
ascertaining the source from which partial distributions of income 54746
have been made is not expressly prescribed by sections 5711.01 to 54747
5711.36 of the Revised Code, the assessor shall be guided by the 54748
statements contained in the taxpayer's return and such general 54749
rules as the tax commissioner adopts to enable the assessor to 54750
make such determination. 54751

(B) The true value of the boilers, machinery, equipment, and 54752
any personal property used to generate or distribute ~~the~~ 54753

electricity shall be: 54754

(1) For tax years before tax year 2006, the sum of the 54755
following: 54756

~~(1)~~(a) The true value of the property as it would be 54757
determined under this chapter if none of the electricity were 54758
distributed to others multiplied by the per cent of the 54759
electricity generated in the preceding calendar year that was used 54760
by the person who generated it; plus 54761

~~(2)~~(b) The true value of the property that is production 54762
equipment as it would be determined for an electric company under 54763
section 5727.11 of the Revised Code multiplied by the per cent of 54764
the electricity generated in the preceding calendar year that was 54765
not used by the person who generated it; plus 54766

~~(3)~~(c) The true value of the property that is not production 54767
equipment as it would be determined for an electric company under 54768
section 5727.11 of the Revised Code multiplied by the per cent of 54769
the electricity generated in the preceding calendar year that was 54770
not used by the person who generated it. 54771

(2) For tax year 2006 and each tax year thereafter, the true 54772
value of the property as it would be determined under this chapter 54773
if none of the electricity were distributed to others multiplied 54774
by the per cent of the electricity generated in the preceding 54775
calendar year that was used by the person who generated it. 54776

(C) The For tax years before tax year 2006, the true value of 54777
personal property leased to a public utility or interexchange 54778
telecommunications company as defined in section 5727.01 of the 54779
Revised Code and used by the utility or interexchange 54780
telecommunications company directly in the rendition of a public 54781
utility service as defined in division (P) of section 5739.01 of 54782
the Revised Code shall be determined in the same manner that the 54783
true value of such property is determined under section 5727.11 of 54784

the Revised Code if owned by the public utility or interexchange 54785
telecommunications company. 54786

Sec. 5711.22. (A) Deposits not taxed at the source shall be 54787
listed and assessed at their amount in dollars on the day they are 54788
required to be listed. Moneys shall be listed and assessed at the 54789
amount thereof in dollars on hand on the day that they are 54790
required to be listed. In listing investments, the amount of the 54791
income yield of each for the calendar year next preceding the date 54792
of listing shall, except as otherwise provided in this chapter, be 54793
stated in dollars and cents and the assessment thereof shall be at 54794
the amount of such income yield; but any property defined as 54795
investments in either division (A) or (B) of section 5701.06 of 54796
the Revised Code that has not been outstanding for the full 54797
calendar year next preceding the date of listing, except shares of 54798
stock of like kind as other shares of the same corporation 54799
outstanding for the full calendar year next preceding the date of 54800
listing, or which has yielded no income during such calendar year 54801
shall be listed and assessed as unproductive investments, at their 54802
true value in money on the day that such investments are required 54803
to be listed. 54804

Credits and other taxable intangibles shall be listed and 54805
assessed at their true value in money on the day as of which the 54806
same are required to be listed. 54807

Shares of stock of a bank holding company, as defined in 54808
Title 12 U.S.C.A., section 1841, that are required to be listed 54809
for taxation under this division and upon which dividends were 54810
paid during the year of their issuance, which dividends are 54811
subject to taxation under the provisions of Chapter 5747. of the 54812
Revised Code, shall be exempt from the intangibles tax for the 54813
year immediately succeeding their issuance. If such shares bear 54814
dividends the first calendar year after their issuance, which 54815

dividends are subject to taxation under the provisions of Chapter 54816
5747. of the Revised Code, it shall be deemed that the 54817
nondelinquent intangible property tax pursuant to division (A) of 54818
section 5707.04 of the Revised Code was paid on those dividends 54819
paid that first calendar year after the issuance of the shares. 54820

(B)~~(1)~~ Boilers, machinery, equipment, and personal property 54821
the true value of which is determined under division (B) of 54822
section 5711.21 of the Revised Code shall be listed and assessed 54823
at an amount equal to: 54824

(1) For tax years before tax year 2006, the sum of the 54825
products determined under divisions (B)(1)(a), (b), and (c) of 54826
this section. 54827

(a) Multiply the portion of the true value ~~determined~~ 54828
calculated under division (B)(1)(a) of section 5711.21 of the 54829
Revised Code by the assessment rate for the tax year in division 54830
(F) of this section; 54831

(b) Multiply the portion of the true value determined under 54832
division (B)~~(2)~~(1)(b) of section 5711.21 of the Revised Code by 54833
the assessment rate in section 5727.111 of the Revised Code that 54834
is applicable to the production equipment of an electric company; 54835

(c) Multiply the portion of the true value determined under 54836
division (B)~~(3)~~(1)(c) of section 5711.21 of the Revised Code by 54837
the assessment rate in section 5727.111 of the Revised Code that 54838
is applicable to the property of an electric company that is not 54839
production equipment. 54840

(2) ~~Personal~~ For tax year 2006 and each tax year thereafter, 54841
the product calculated by multiplying the portion of the true 54842
value determined under division (B)(2) of section 5711.21 of the 54843
Revised Code by the assessment rate for that tax year in division 54844
(F) of this section. 54845

(C) For tax years before tax year 2006, personal property 54846
leased to a public utility or interexchange telecommunications 54847
company as defined in section 5727.01 of the Revised Code and used 54848
directly in the rendition of a public utility service as defined 54849
in division (P) of section 5739.01 of the Revised Code shall be 54850
listed and assessed at the same percentage of true value in money 54851
that such property is required to be assessed by section 5727.111 54852
of the Revised Code if owned by the public utility or 54853
interexchange telecommunications company. 54854

~~(C)(D)(1) Merchandise or an agricultural product shipped from~~ 54855
~~outside this state and held in this state in a warehouse or a~~ 54856
~~place of storage without further manufacturing or processing and~~ 54857
~~for storage only and for shipment outside this state, but that is~~ 54858
~~taxable because it~~ does not qualify as "not used in business in 54859
this state" under division (B)(1) or (2) of section 5701.08 of the 54860
Revised Code, ~~shall be listed and assessed at a rate of~~ 54861
~~twenty five one hundredths of its true value in money until~~ 54862
~~reduced in accordance with the following schedule:~~ 54863

~~(a) For any year, subtract five one hundredths from the rate~~ 54864
~~at which such property was required to be listed and assessed in~~ 54865
~~the preceding year, if the total statewide collection of all real~~ 54866
~~and tangible personal property taxes for the second preceding year~~ 54867
~~exceeded the total statewide collection of all real and tangible~~ 54868
~~personal property taxes for the third preceding year by more than~~ 54869
~~the greater of four per cent or the rate of increase from the~~ 54870
~~third to the second preceding years in the average consumer price~~ 54871
~~index (all urban consumers, all items) prepared by the bureau of~~ 54872
~~labor statistics of the United States department of labor;~~ 54873

~~(b) If no reduction in the assessment rate is made for a~~ 54874
~~year, the rate is the same as for the preceding year.~~ 54875

~~(2) Each year until the year the assessment rate equals zero,~~ 54876

~~the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.~~ 54877
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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.~~ 54880
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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:~~ 54890
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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 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~~ 54900
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labor statistics of the United States department of labor; 54909

~~(b) If no reduction in the assessment rate is made for a 54910
year, the rate is the same as for the preceding year. 54911~~

~~(2) Each year until the year the assessment rate equals zero, 54912
the tax commissioner shall determine the assessment rate required 54913
under this division and shall notify all county auditors of that 54914
rate. 54915~~

~~(3) Notwithstanding provisions to the contrary in division 54916
(B) of section 5701.08 of the Revised Code, during and after the 54917
year for which the assessment rate as calculated under this 54918
division equals zero, any merchandise or agricultural product 54919
described in division (D)(1) of this section is nevertheless not 54920
used in business in this state for property tax purposes. 54921~~

~~(4)(3) As used in division (D)(2) of this section: 54922~~

(a) "Qualified out-of-state person" means a person that does 54923
not own, lease, or use property, other than merchandise or an 54924
agricultural product described in this division, in this state, 54925
and does not have employees, agents, or representatives in this 54926
state; 54927

(b) "Public warehouse" means a warehouse in this state that 54928
is not subject to the control of or under the supervision of the 54929
owner of the merchandise or agricultural product stored in it, or 54930
staffed by the owner's employees, and from which the property is 54931
to be shipped inside this state. 54932

(E) Personal property valued pursuant to section 5711.15 of 54933
the Revised Code and personal property required to be listed on 54934
the average basis by division (A) of section 5711.16 of the 54935
Revised Code, except property described in division ~~(C)~~ or (D) of 54936
this section, business fixtures, and furniture not held for sale 54937
in the course of business, shall be listed and assessed at the 54938

~~rate of twenty-five per cent percentage of its true value in money 54939
until reduced to zero in accordance with the following schedule: 54940~~

~~(1) Beginning in tax year 2002 and for each of tax years 2003 54941
and 2004, subtract one percentage point from the rate at which the 54942
property was required to be listed and assessed in the preceding 54943
year, if the total statewide collection of tangible personal 54944
property taxes for the second preceding year exceeded the total 54945
statewide collection of tangible personal property taxes for the 54946
third preceding year. If no reduction in the assessment rate is 54947
made for a year, the rate is the same as for the preceding year. 54948~~

~~(2) In For tax years 2005 and 2006, the assessment rate shall 54949
be reduced by two percentage points, if the total statewide 54950
collection of tangible personal property taxes for the second 54951
preceding year exceeded the total statewide collection of tangible 54952
personal property taxes for the third preceding year. If no 54953
reduction in the assessment rate is made for a year, the rate is 54954
the same as for the preceding year twenty-three per cent of true 54955
value. 54956~~

~~(3)(2) For tax year 2007, twenty-one per cent of true value; 54957~~

~~(3) For tax year 2008, fourteen per cent of true value; 54958~~

~~(4) For tax year 2009, seven per cent of true value; 54959~~

~~(5) For tax year 2010 and each tax year thereafter, the 54960
assessment rate shall be reduced by two percentage points. During 54961
and after the tax year that the assessment rate equals zero, the 54962
property described in division (E) of this section shall not be 54963
listed for taxation. 54964~~

~~Each year until the year the assessment rate equals zero, the 54965
tax commissioner shall determine the assessment rate required 54966
under this division and shall notify all county auditors of that 54967
rate. 54968~~

~~For purposes of division (E) of this section, "total statewide collection of tangible person property taxes" excludes taxes collected from public utilities and interexchange telecommunications companies on property that is determined to be taxable pursuant to section 5727.06 of the Revised Code zero percent of true value.~~

(F) All engines and machinery, and tools and implements, used or designed to be used in manufacturing as described in section 5711.16 of the Revised Code, in mining, in stone plants and gravel plants, in laundries, towel, and linen supply and dry cleaning plants, and in radio and television broadcasting shall be listed and assessed at a percentage rate of its true value in money in accordance with the following schedule:

(1) For all such property not previously used in business in this state by the owner thereof, or by related member or predecessor of the owner, other than as inventory, before January 1, 2005, the assessment rate shall be zero per cent of true value;

(2) For all other such property, the assessment rate for tax year 2005 shall be twenty-five per cent of true value, twelve and one-half per cent of true value for tax year 2006, and zero per cent of true value for tax year 2007 and each tax year thereafter.

~~(F)~~(G) Unless otherwise provided by law, all other personal property used in business that has not been legally regarded as an improvement on land and considered in arriving at the value of the real property assessed for taxation shall be listed and assessed at ~~the rate of twenty five per cent~~ a percentage rate of its true value in money in accordance with the following schedule:

(1) For tax year 2005, twenty-five per cent of true value;

(2) For tax year 2006, twenty per cent of true value;

(3) For tax year 2007, fifteen per cent of true value;

<u>(4) For tax year 2008, ten per cent of true value;</u>	54999
<u>(5) For tax year 2009, five per cent of true value;</u>	55000
<u>(6) For tax year 2010 and each tax year thereafter, zero per cent of true value.</u>	55001 55002
<u>(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.</u>	55003 55004 55005
<u>(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.</u>	55006 55007 55008 55009 55010
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 <u>The</u> 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 endowment fund of an institution has once been held by the commissioner to be properly exempt from taxation, it is not	55011 55012 55013 55014 55015 55016 55017 55018 55019 55020 55021 55022 55023 55024 55025 55026 55027 55028

necessary to obtain the commissioner's consent to the exemption of 55029
additional property or investments of the same kind belonging to 55030
the same institution, but such property shall appear on the 55031
abstract filed annually with the commissioner. The commissioner 55032
may revise at any time the list in every county so that no 55033
property is improperly or illegally exempted from taxation. The 55034
auditor shall follow the orders of the commissioner given under 55035
this section. An abstract of ~~such~~ the list shall be filed annually 55036
with the commissioner, on a form approved by the commissioner, and 55037
a copy thereof shall be kept on file in the office of each auditor 55038
for public inspection. 55039

The commissioner shall not consider an application for 55040
exemption of property unless the application has attached thereto 55041
a certificate executed by the county treasurer certifying one of 55042
the following: 55043

(1) That all taxes, assessments, interest, and penalties 55044
levied and assessed against the property sought to be exempted 55045
have been paid in full to the date upon which the application for 55046
exemption is filed, except for such taxes, interest, and penalties 55047
that may be remitted under division (B) of this section; 55048

(2) That the applicant has entered into a valid delinquent 55049
tax contract with the county treasurer pursuant to division (A) of 55050
section 323.31 of the Revised Code to pay all of the delinquent 55051
taxes, assessments, interest, and penalties charged against the 55052
property, except for such taxes, interest, and penalties that may 55053
be remitted under division (B) of this section. If the auditor 55054
receives notice under section 323.31 of the Revised Code that such 55055
a written delinquent tax contract has become void, the auditor 55056
shall strike ~~such~~ the property from the list of exempted property 55057
and reenter ~~such~~ the property on the taxable list. If property is 55058
removed from the exempt list because a written delinquent tax 55059
contract has become void, current taxes shall first be extended 55060

against that property on the general tax list and duplicate of 55061
real and public utility property for the tax year in which the 55062
auditor receives the notice required by division (A) of section 55063
323.31 of the Revised Code that the delinquent tax contract has 55064
become void or, if that notice is not timely made, for the tax 55065
year in which falls the latest date by which the treasurer is 55066
required by ~~such~~ that section to give such notice. A county 55067
auditor shall not remove from any tax list and duplicate the 55068
amount of any unpaid delinquent taxes, assessments, interest, or 55069
penalties owed on property that is placed on the exempt list 55070
pursuant to this division. 55071

(3) That a tax certificate has been issued under section 55072
5721.32 or 5721.33 of the Revised Code with respect to the 55073
property that is the subject of the application, and the tax 55074
certificate is outstanding. 55075

(B) Any taxes, interest, and penalties ~~which~~ that have become 55076
a lien after the property was first used for the exempt purpose, 55077
but in no case prior to the date of acquisition of the title to 55078
the property by the applicant, may be remitted by the 55079
commissioner, except as is provided in division (A) of section 55080
5713.081 of the Revised Code. 55081

(C) Real property acquired by the state in fee simple is 55082
exempt from taxation from the date of acquisition of title or date 55083
of possession, whichever is the earlier date, provided that all 55084
taxes, interest, and penalties as provided in the apportionment 55085
provisions of section 319.20 of the Revised Code have been paid to 55086
the date of acquisition of title or date of possession by the 55087
state, whichever is earlier. The proportionate amount of taxes 55088
that are a lien but not yet determined, assessed, and levied for 55089
the year in which the property is acquired, shall be remitted by 55090
the county auditor for the balance of the year from date of 55091
acquisition of title or date of possession, whichever is earlier. 55092

This section shall not be construed to authorize the exemption of 55093
such property from taxation or the remission of taxes, interest, 55094
and penalties thereon until all private use has terminated. 55095

Real property acquired by the department of natural resources 55096
for which an application for exemption has been filed shall be 55097
removed from the tax list and duplicate and shall not accrue taxes 55098
or penalties while the application for tax exemption is being 55099
processed. 55100

Sec. 5715.24. (A) The tax commissioner, annually, shall 55101
determine whether the real property and the various classes 55102
thereof in the several counties, municipal corporations, and 55103
taxing districts which have completed a sexennial reappraisal in 55104
the current year and which will have the new taxable values placed 55105
on the tax list and duplicate have been assessed as required by 55106
law, and whether the values set forth in the agricultural land tax 55107
list in such taxing districts correctly reflect the true and 55108
agricultural use values of the lands contained therein. The 55109
determination shall be made prior to the first Monday in August 55110
unless the commissioner, for good cause, extends the date. If the 55111
commissioner finds that the real property or any class thereof in 55112
any such county, municipal corporation, or taxing district, as 55113
reported to it by the several county auditors of the counties that 55114
have completed such reappraisal is not listed for taxation or 55115
recorded on the agricultural land tax list in accordance 55116
therewith, ~~he~~ the commissioner shall increase or decrease the 55117
appropriate aggregate value of the real property or any class 55118
thereof in any such county, township, municipal corporation, 55119
taxing district, or ward or division of a municipal corporation, 55120
by a per cent or amount that will cause such property to be 55121
correctly valued on the agricultural land tax list and to be 55122
correctly assessed on the tax list at its taxable value so that 55123

every class of real property shall be listed and valued for 55124
taxation and valued for purposes of sections 5713.33 to 5713.35 of 55125
the Revised Code as required by law. In determining whether a 55126
class of real property has been assessed at its correct taxable 55127
value or agricultural use value and in determining any per cent or 55128
amount by which the aggregate value of the class from a prior year 55129
shall be increased or decreased to be correctly assessed, the 55130
value of new construction shall not be regarded as an increase in 55131
such aggregate value from the prior year, and the value of 55132
property destroyed or demolished since the prior year shall be 55133
deducted from the aggregate value of that class for the prior 55134
year. 55135

In implementing any increase or decrease in valuation of real 55136
property ordered by the commissioner pursuant to this section, the 55137
county auditor shall, when practicable, increase or decrease the 55138
taxable valuation of parcels in accordance with actual changes in 55139
valuation of real property which occur in different subdivisions, 55140
neighborhoods, or among classes of real property in the county. 55141

(B) Division (A) of this section also applies to a county in 55142
the third calendar year following the year in which a sexennial 55143
reappraisal is completed. 55144

Sec. 5719.041. If the payment of a general personal property 55145
or classified property tax is not made on or before the last day 55146
prescribed by section 5719.03 or 5719.031 of the Revised Code, an 55147
interest charge shall begin to accrue and shall continue until all 55148
charges are paid, except that no interest charge shall accrue for 55149
or in the month in which such payment was due under such section 55150
or under the circumstances and for the period described in 55151
division (A)(2) of section 5711.33 of the Revised Code or upon 55152
delinquent taxes that are the subject of a delinquent tax contract 55153
entered into pursuant to section 5719.05 of the Revised Code. 55154

The interest charge shall accrue against the balance of such 55155
taxes and any penalty thereon outstanding that remains unpaid on 55156
the last day of each month and shall be at the rate per calendar 55157
month, rounded to the nearest one-hundredth of one per cent, equal 55158
to one-twelfth of the ~~rate per annum prescribed by federal~~ 55159
short-term rate determined by the tax commissioner under section 55160
5703.47 of the Revised Code for the calendar year that includes 55161
the month for which the charge accrues. The charge is payable in 55162
addition to the unpaid balance of taxes and penalties on the day 55163
the charge accrues, unless the entire balance is sooner paid. 55164

If a delinquent tax contract becomes void, interest shall be 55165
charged on the day on which the contract becomes void in the 55166
amount that would have been charged had the delinquent tax 55167
contract not been entered into and shall thereafter accrue as 55168
provided in this section. 55169

Interest shall be allowed, at the same rate per calendar 55170
month as is applicable that month for underpayments, on any 55171
overpayment of the tax charged on a general personal property or a 55172
classified property tax duplicate, from the first day of the month 55173
following the date of the overpayment until the last day of the 55174
month preceding the date of the refund of the overpayment. The 55175
interest shall be paid from the fund or funds to which the 55176
overpayment was credited. 55177

When the county treasurer makes the treasurer's annual 55178
settlement with the county auditor under division (D) of section 55179
321.24 of the Revised Code, the treasurer shall certify to the 55180
auditor a list of all entries on the cumulative delinquent tax 55181
duplicate that are at that time in the process of being paid in 55182
installments under a valid delinquent tax contract. For each entry 55183
that appears on the duplicate that is not on the certified list, 55184
the auditor shall compute the full amount of interest charges 55185
which have accrued against such entry since the preceding such 55186

settlement was made and shall include such charges through the 55187
last day of the month preceding the current settlement. The 55188
auditor shall include such amounts on the tax list and duplicates 55189
prepared by the auditor as prescribed in section 5719.04 of the 55190
Revised Code unless the interest is less than one dollar, in which 55191
case it shall not be added to such tax lists and duplicates. 55192

Before the county treasurer accepts any payment of taxes 55193
against which there are accrued interest charges that do not 55194
appear on the delinquent tax duplicate, the treasurer shall notify 55195
the auditor who shall issue a certificate to the treasurer showing 55196
the amount of such interest charges, and the treasurer shall 55197
collect the amount shown on such certificate at the time of 55198
accepting payment of such taxes. If the amount of such interest 55199
charges is less than one dollar, no such certificate shall be 55200
issued. In the case of delinquent personal property taxes, the 55201
interest shown on such certificate shall be credited to the 55202
undivided general tax fund, and distributed in the same manner as 55203
the delinquent taxes upon which the interest charges accrued. In 55204
the case of delinquent classified property taxes, the interest 55205
shown on such certificate shall be credited to the county library 55206
and local government support fund and distributed in accordance 55207
with section 5747.48 of the Revised Code. When the payment of 55208
delinquent taxes is credited on the tax duplicate the treasurer 55209
shall make a separate notation thereon indicating the amount 55210
collected and the index number of the auditor's certificate herein 55211
prescribed. 55212

Sec. 5725.01. As used in sections 5725.01 to 5725.26 of the 55213
Revised Code: 55214

(A) "Financial institution" means: 55215

(1) A national bank organized and existing as a national bank 55216
association pursuant to the "National Bank Act," 12 U.S.C. 21; 55217

(2) A federal savings association or federal savings bank	55218
that is chartered under 12 U.S.C. 1464;	55219
(3) A bank, banking association, trust company, savings and	55220
loan association, savings bank, or other banking institution that	55221
is incorporated or organized under the laws of any state;	55222
(4) Any corporation organized under 12 U.S.C. 611 to 631;	55223
(5) Any agency or branch of a foreign depository as defined	55224
in 12 U.S.C. 3101;	55225
(6) A company licensed as a small business investment company	55226
under the "Small Business Investment Act of 1958," 72 Stat. 689,	55227
15 U.S.C. 661, as amended; or	55228
(7) A company chartered under the "Farm Credit Act of 1933,"	55229
48 Stat. 257, 12 U.S.C. 1131(d), as amended.	55230
Corporations or institutions organized under the "Federal	55231
Farm Loan Act" and amendments thereto, insurance companies, and	55232
credit unions shall not be considered financial institutions or	55233
dealers in intangibles within the meaning of such sections.	55234
(B) "Dealer in intangibles" includes every person who keeps	55235
an office or other place of business in this state and engages at	55236
such office or other place in the business of lending money, or	55237
discounting, buying, or selling bills of exchange, drafts,	55238
acceptances, notes, mortgages, or other evidences of indebtedness,	55239
or of buying or selling bonds, stocks, or other investment	55240
securities, whether on the person's own account with a view to	55241
profit, or as agent or broker for others, with a view to profit or	55242
personal earnings. Dealer in intangibles excludes institutions	55243
used exclusively for charitable purposes, insurance companies, and	55244
financial institutions. Neither casual nor isolated transactions	55245
of any of the kinds enumerated in this division of this section,	55246
nor the investment of funds as personal accumulations or as	55247

business reserves or working capital constitute engaging in 55248
business within the meaning of this division of this section; but 55249
a person who, having engaged in the business of lending money, or 55250
discounting, buying, or selling bills of exchange, drafts, 55251
acceptances, notes, mortgages, or other evidences of indebtedness 55252
on the person's own account, remains in business for the purpose 55253
of realizing upon the assets of ~~such~~ the business is deemed a 55254
dealer in intangibles, though not presently engaged in lending 55255
money or discounting or buying such securities. 55256

(C) "Insurance company" includes every corporation, 55257
association, and society engaged in the business of insurance of 55258
any character, or engaged in the business of entering into 55259
contracts substantially amounting to insurance of any character, 55260
or of indemnifying or guaranteeing against loss or damage, or 55261
acting as surety on bonds or undertakings. "Insurance company" 55262
also includes any health insuring corporation as defined in 55263
section 1751.01 of the Revised Code. 55264

(D) "Domestic insurance company" includes every insurance 55265
company organized and existing under the laws of this state, and 55266
every unincorporated association and society formed under the laws 55267
of this state for the purpose of engaging in said business, except 55268
a company, association, or society that is an insurance holding 55269
company affiliate controlled by a nonresident affiliate and has 55270
risks in this state formerly written by its foreign affiliates in 55271
a total amount exceeding the risks outstanding on the taxpayer's 55272
latest annual report that arise from business initially written by 55273
it in this state; and excludes every foreign insurance company. As 55274
used in this division, terms defined in section 3901.32 of the 55275
Revised Code have the same meanings given to them in that section. 55276

(E) "Foreign insurance company" includes every insurance 55277
company organized or existing under the laws of any other state, 55278
territory, country, or the United States and every insurance 55279

holding company affiliate excepted under division (D) of this 55280
section. 55281

(F) "Credit union" means a nonprofit cooperative financial 55282
institution organized or chartered under the laws of this state, 55283
of another state, or of the United States. 55284

Sec. 5725.19. (A) As used in this section, "tax otherwise 55285
due" means the tax imposed on a domestic insurance company under 55286
section 5725.18 of the Revised Code reduced by the total amount of 55287
all other nonrefundable credits, if any, that the domestic 55288
insurance company is entitled to claim. 55289

(B) Upon the issuance of a tax credit certificate by the Ohio 55290
venture capital authority under section 150.07 of the Revised 55291
Code, a credit may be claimed against the tax imposed on a 55292
domestic insurance company under section 5725.18 of the Revised 55293
Code. The credit shall be claimed in the calendar year specified 55294
in the certificate issued by the authority. 55295

(C) If the company elected a refundable credit under section 55296
150.07 of the Revised Code and if the amount of the credit shown 55297
on the certificate does not exceed the tax otherwise due, then for 55298
the calendar year the company shall claim a refundable credit 55299
equal to the amount of the credit shown on the certificate. 55300

(D) If the company elected a refundable credit under section 55301
150.07 of the Revised Code, and the amount of the credit shown on 55302
the certificate exceeds the tax otherwise due ~~under section~~ 55303
~~5725.18 of the Revised Code,~~ then for the calendar year the 55304
~~company may receive a refund equal to seventy five per cent of~~ 55305
~~such excess. If~~ shall claim a refundable credit equal to the sum 55306
~~of the following:~~ 55307

(1) The amount, if any, of the tax otherwise due; 55308

(2) Seventy-five per cent of the difference between the 55309

amount of the refundable credit shown on the certificate and the 55310
tax otherwise due. 55311

(E) If the company elected a nonrefundable credit, the amount 55312
of the credit shown on the certificate shall not exceed the amount 55313
of tax otherwise due. If the company elected a nonrefundable 55314
credit and the credit to which the company would otherwise be 55315
entitled under this section for any calendar year is greater than 55316
the tax otherwise due ~~under section 5725.18 of the Revised Code,~~ 55317
the excess shall be allowed as a nonrefundable credit in each of 55318
the ensuing ten calendar years, but the amount of any excess 55319
credit allowed in the ensuing calendar year shall be deducted from 55320
the balance carried forward to the next calendar year. 55321

Sec. 5727.01. As used in this chapter: 55322

(A) "Public utility" means each person referred to as a 55323
telephone company, telegraph company, electric company, natural 55324
gas company, pipe-line company, water-works company, water 55325
transportation company, heating company, rural electric company, 55326
railroad company, or combined company. 55327

(B) "Gross receipts" means the entire receipts for business 55328
done by any person from operations as a public utility, or 55329
incidental thereto, or in connection therewith, including any 55330
receipts received under Chapter 4928. of the Revised Code. The 55331
gross receipts for business done by an incorporated company 55332
engaged in operation as a public utility includes the entire 55333
receipts for business done by such company under the exercise of 55334
its corporate powers, whether from the operation as a public 55335
utility or from any other business. 55336

(C) "Rural electric company" means any nonprofit corporation, 55337
organization, association, or cooperative engaged in the business 55338
of supplying electricity to its members or persons owning an 55339

interest therein in an area the major portion of which is rural.	55340
(D) Any person:	55341
(1) Is a telegraph company when engaged in the business of transmitting telegraphic messages to, from, through, or in this state;	55342 55343 55344
(2) Is a telephone company when primarily engaged in the business of providing local exchange telephone service, excluding cellular radio service, in this state;	55345 55346 55347
(3) Is an electric company when engaged in the business of generating, transmitting, or distributing electricity within this state for use by others, but excludes a rural electric company;	55348 55349 55350
(4) Is a natural gas company when engaged in the business of supplying or distributing natural gas for lighting, power, or heating purposes to consumers within this state, excluding a person that is a governmental aggregator or retail natural gas supplier as defined in section 4929.01 of the Revised Code;	55351 55352 55353 55354 55355
(5) Is a pipe-line company when engaged in the business of transporting natural gas, oil, or coal or its derivatives through pipes or tubing, either wholly or partially within this state;	55356 55357 55358
(6) Is a water-works company when engaged in the business of supplying water through pipes or tubing, or in a similar manner, to consumers within this state;	55359 55360 55361
(7) Is a water transportation company when engaged in the transportation of passengers or property, by boat or other watercraft, over any waterway, whether natural or artificial, from one point within this state to another point within this state, or between points within this state and points without this state;	55362 55363 55364 55365 55366
(8) Is a heating company when engaged in the business of supplying water, steam, or air through pipes or tubing to consumers within this state for heating purposes;	55367 55368 55369

(9) Is a railroad company when engaged in the business of 55370
owning or operating a railroad either wholly or partially within 55371
this state on rights-of-way acquired and held exclusively by such 55372
company, or otherwise, and includes a passenger, street, suburban, 55373
or interurban railroad company. 55374

As used in division (D)(2) of this section, "local exchange 55375
telephone service" means making available or furnishing access and 55376
a dial tone to all persons within a local calling area for use in 55377
originating and receiving voice grade communications over a 55378
switched network operated by the provider of the service within 55379
the area and for gaining access to other telecommunication 55380
services. 55381

(E) "Taxable property" means the property required by section 55382
5727.06 of the Revised Code to be assessed by the tax 55383
commissioner, but does not include ~~either of~~ the following: 55384

(1) An item of tangible personal property that for the period 55385
subsequent to the effective date of an air, water, or noise 55386
pollution control certificate and continuing so long as the 55387
certificate is in force, has been certified as part of the 55388
pollution control facility with respect to which the certificate 55389
has been issued; 55390

(2) An item of tangible personal property that during the 55391
construction of a plant or facility and until the item is first 55392
capable of operation, whether actually used in operation or not, 55393
is incorporated in or being held exclusively for incorporation in 55394
that plant or facility; 55395

(3) For tax year 2006 and thereafter, documented costs for 55396
drawings used by a public utility or interexchange 55397
telecommunications company to provide its public utility or 55398
interexchange telecommunication service. Division (E)(3) of this 55399
section does not apply to an electric company or a combined 55400

company engaged in the activity of an electric company. 55401

(F) "Taxing district" means a municipal corporation of 55402
township, or part thereof, in which the aggregate rate of taxation 55403
is uniform. 55404

(G) "Telecommunications service" has the same meaning as in 55405
division (AA) of section 5739.01 of the Revised Code. 55406

(H) "Interexchange telecommunications company" means a person 55407
that is engaged in the business of transmitting telephonic 55408
messages to, from, through, or in this state, but that is not a 55409
telephone company. 55410

(I) "Sale and leaseback transaction" means a transaction in 55411
which a public utility or interexchange telecommunications company 55412
sells any tangible personal property to a person other than a 55413
public utility or interexchange telecommunications company and 55414
leases that property back from the buyer. 55415

(J) "Production equipment" means all taxable steam, nuclear, 55416
hydraulic, and other production plant equipment used to generate 55417
electricity. For tax years prior to 2001, "production equipment" 55418
includes taxable station equipment that is located at a production 55419
plant. 55420

(K) "Tax year" means the year for which property or gross 55421
receipts are subject to assessment under this chapter. This 55422
division does not limit the tax commissioner's ability to assess 55423
and value property or gross receipts outside the tax year. 55424

(L) "Combined company" means any person engaged in the 55425
activity of an electric company or rural electric company that is 55426
also engaged in the activity of a heating company or a natural gas 55427
company, or any combination thereof. 55428

Sec. 5727.02. As used in this chapter, "public utility," 55429
"electric company," "natural gas company," "pipe-line company," 55430

"water-works company," "water transportation company" or "heating company" does not include any of the following: 55431
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(A) Any (1) Except as provided in division (A)(2) of this section, any person that is engaged in some other primary business to which the supplying of electricity, heat, natural gas, water, water transportation, steam, or air to others is incidental. As used in ~~this~~ division (A) of this section and in section 5727.031 of the Revised Code, "supplying of electricity" means generating, transmitting, or distributing electricity. 55433
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(2) For tax year 2006 and each tax year thereafter, a person that is engaged in some other primary business to which the supplying of electricity to others is incidental shall be treated as an "electric company" and a "public utility" for purposes of this chapter solely to the extent required by section 5727.031 of the Revised Code. 55440
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(B) Any person that supplies electricity, natural gas, water, water transportation, steam, or air to its tenants, whether for a separate charge or otherwise; 55446
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(C) Any person whose primary business in this state consists of producing, refining, or marketing petroleum or its products. 55449
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(D) Any person whose primary business in this state consists of producing or gathering natural gas rather than supplying or distributing natural gas to consumers. 55451
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Sec. 5727.031. (A) For tax year 2006 and each tax year thereafter, a person that is engaged in some other primary business to which the supplying of electricity to others is incidental shall file a report under section 5727.08 of the Revised Code as an electric company but shall only report therein as taxable property the amounts required in divisions (B) and (C) of this section. All time limits and other procedural requirements 55454
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of this chapter for the reporting and assessment of property of 55461
electric companies apply to persons required to file a report 55462
under this section. 55463

(B) A person subject to this section shall report the true 55464
value of the boilers, machinery, equipment, and any personal 55465
property used to supply electricity to others, which shall be the 55466
sum of the following: 55467

(1) The true value of the property that is production 55468
equipment as it would be determined for an electric company under 55469
section 5727.11 of the Revised Code multiplied by the per cent of 55470
the electricity generated in the preceding calendar year that was 55471
not used by the person who generated it; plus 55472

(2) The true value of the property that is not production 55473
equipment as it would be determined for an electric company under 55474
section 5727.11 of the Revised Code multiplied by the per cent of 55475
the electricity generated in the preceding calendar year that was 55476
not used by the person who generated it. 55477

(C) The property reported under division (B) of this section 55478
shall be listed and assessed at an amount equal to the sum of the 55479
products determined under divisions (C)(1) and (2) of this 55480
section. 55481

(1) Multiply the portion of the true value determined under 55482
division (B)(1) of this section by the assessment rate in section 55483
5727.111 of the Revised Code that is applicable to the production 55484
equipment of an electric company; 55485

(2) Multiply the portion of the true value determined under 55486
division (B)(2) of this section by the assessment rate in section 55487
5727.111 of the Revised Code that is applicable to the property of 55488
an electric company that is not production equipment. 55489

Sec. 5727.06. (A) Except as otherwise provided by law, the 55490
following constitutes the taxable property of a public utility or 55491
interexchange telecommunications company that shall be assessed by 55492
the tax commissioner: 55493

(1) For tax years before tax year 2006: 55494

(a) In the case of a railroad company, all real property and 55495
tangible personal property owned or operated by the railroad 55496
company in this state on the thirty-first day of December of the 55497
preceding year; 55498

~~(2)~~(b) In the case of a water transportation company, all 55499
tangible personal property, except watercraft, owned or operated 55500
by the water transportation company in this state on the 55501
thirty-first day of December of the preceding year and all 55502
watercraft owned or operated by the water transportation company 55503
in this state during the preceding calendar year; 55504

~~(3)~~(c) In the case of all other public utilities and 55505
interexchange telecommunications companies, all tangible personal 55506
property that on the thirty-first day of December of the preceding 55507
year was both located in this state and: 55508

~~(a)~~(i) Owned by the public utility or interexchange 55509
telecommunications company; or 55510

~~(b)~~(ii) Leased by the public utility or interexchange 55511
telecommunications company under a sale and leaseback transaction. 55512

(2) For tax year 2006 and each tax year thereafter: 55513

(a) In the case of a railroad company, all real property and 55514
tangible personal property owned, leased, or operated by the 55515
railroad company in this state on the thirty-first day of December 55516
of the preceding year; 55517

(b) In the case of a water transportation company, all 55518
tangible personal property, except watercraft, owned, leased, or 55519

operated by the water transportation company in this state on the 55520
thirty-first day of December of the preceding year and all 55521
watercraft owned, leased, or operated by the water transportation 55522
company in this state during the preceding calendar year; 55523

(c) In the case of all other public utilities and 55524
interexchange telecommunications companies, all tangible personal 55525
property owned, leased, or operated by the public utility or 55526
interexchange telecommunications company in this state on the 55527
thirty-first day of December of the preceding year. 55528

(d) Tangible personal property owned by one public utility or 55529
interexchange telecommunications company in this state and leased 55530
or operated by another public utility or interexchange 55531
telecommunications company in this state shall be taxable property 55532
of the public utility or interexchange telecommunications company 55533
the property is leased or operated by and shall not be taxable 55534
property of the public utility or interexchange telecommunications 55535
company the property is owned by. 55536

(B) In the case of an interexchange telecommunications 55537
company, all taxable property shall be subject to the provisions 55538
of this chapter and shall be valued by the commissioner in 55539
accordance with division (A) of section 5727.11 of the Revised 55540
Code. A person described by this division shall file the report 55541
required by section 5727.08 of the Revised Code. Persons described 55542
in this division shall not be considered taxpayers, as defined in 55543
division (B) of section 5711.01 of the Revised Code, and shall not 55544
be required to file a return and list their taxable property under 55545
any provision of Chapter 5711. of the Revised Code. 55546

(C) The lien of the state for taxes levied each year on the 55547
real and personal property of public utilities and interexchange 55548
telecommunications companies shall attach thereto on the 55549
thirty-first day of December of the preceding year. 55550

(D) Property that is required by division (A)(3)(b) of this section to be assessed by the tax commissioner under this chapter shall not be listed by the owner of the property under Chapter 5711. of the Revised Code.

(E) The tax commissioner may adopt rules governing the listing of the taxable property of public utilities and interexchange telecommunications companies and the determination of true value.

Sec. 5727.10. Annually, the tax commissioner shall determine, in accordance with section 5727.11 of the Revised Code, the true value in money of all taxable property required by division (A)(2) ~~or (3)(a), (b), (c), or (d)~~ of section 5727.06 of the Revised Code to be assessed by the commissioner. The commissioner also shall determine the total taxable value of such property based on the percentages of true value at which the property is required to be assessed by section 5727.111 of the Revised Code.

The commissioner shall be guided by the information contained in the report filed by the public utility and such other evidence and rules as will enable ~~him~~ the commissioner to make these determinations.

Before issuing the preliminary assessment under section 5727.23 of the Revised Code, the commissioner shall notify each public utility of the proposed total taxable value of its taxable property, including any proposed penalty. After receiving such notice, a public utility may, upon written application, within the time prescribed by the commissioner, appear before ~~him~~ the commissioner and be heard in the matter of the proposal. The commissioner may, on the application of a public utility, or on ~~his~~ the commissioner's own motion, correct the proposal.

Sec. 5727.11. (A) Except as otherwise provided in this 55581
section, the true value of all taxable property required by 55582
division (A)(2) ~~or (3)~~ (a), (b), (c), or (d) of section 5727.06 of 55583
the Revised Code to be assessed by the tax commissioner shall be 55584
determined by a method of valuation using cost as capitalized on 55585
the public utility's books and records less composite annual 55586
allowances as prescribed by the commissioner. If the commissioner 55587
finds that application of this method will not result in the 55588
determination of true value of the public utility's taxable 55589
property, the commissioner may use another method of valuation. 55590

(B)(1) Except as provided in division (B)(2) of this section, 55591
the true value of current gas stored underground is the cost of 55592
that gas shown on the books and records of the public utility on 55593
the thirty-first day of December of the preceding year. 55594

(2) For tax year 2001 and thereafter, the true value of 55595
current gas stored underground is the quotient obtained by 55596
dividing (a) the average value of the current gas stored 55597
underground, which shall be determined by adding the value of the 55598
gas on hand at the end of each calendar month in the calendar year 55599
preceding the tax year, or, if applicable, the last day of 55600
business of each month for a partial month, divided by (b) the 55601
total number of months the natural gas company was in business 55602
during the calendar year prior to the beginning of the tax year. 55603
with the approval of the tax commissioner, a natural gas company 55604
may use a date other than the end of a calendar month to value its 55605
current gas stored underground. 55606

(C) The true value of noncurrent gas stored underground is 55607
thirty-five per cent of the cost of that gas shown on the books 55608
and records of the public utility on the thirty-first day of 55609
December of the preceding year. 55610

(D)(1) Except as provided in division (D)(2) of this section, 55611

the true value of the production equipment of an electric company 55612
and the true value of all taxable property of a rural electric 55613
company is the equipment's or property's cost as capitalized on 55614
the company's books and records less fifty per cent of that cost 55615
as an allowance for depreciation and obsolescence. 55616

(2) The true value of the production equipment of an electric 55617
company or rural electric company purchased, transferred, or 55618
placed into service after the effective date of this amendment is 55619
the purchase price of the equipment as capitalized on the 55620
company's books and records less composite annual allowances as 55621
prescribed by the tax commissioner. 55622

(E) The true value of taxable property described in division 55623
(A)(2) ~~or (3)~~ (a), (b), (c), or (d) of section 5727.06 of the 55624
Revised Code shall not include the allowance for funds used during 55625
construction or interest during construction that has been 55626
capitalized on the public utility's books and records as part of 55627
the total cost of the taxable property. This division shall not 55628
apply to the taxable property of an electric company or a rural 55629
electric company, excluding transmission and distribution 55630
property, first placed into service after December 31, 2000, or to 55631
the taxable property a person purchases, which includes transfers, 55632
if that property was used in business by the seller prior to the 55633
purchase. 55634

(F) The true value of watercraft owned or operated by a water 55635
transportation company shall be determined by multiplying the true 55636
value of the watercraft as determined under division (A) of this 55637
section by a fraction, the numerator of which is the number of 55638
revenue-earning miles traveled by the watercraft in the waters of 55639
this state and the denominator of which is the number of 55640
revenue-earning miles traveled by the watercraft in all waters. 55641

(G) The cost of property subject to a sale and leaseback 55642

transaction is the cost of the property as capitalized on the 55643
books and records of the public utility owning the property 55644
immediately prior to the sale and leaseback transaction. 55645

(H) The cost as capitalized on the books and records of a 55646
public utility includes amounts capitalized that represent 55647
regulatory assets, if such amounts previously were included on the 55648
company's books and records as capitalized costs of taxable 55649
personal property. 55650

(I) Any change in the composite annual allowances as 55651
prescribed by the commissioner on a prospective basis shall not be 55652
admissible in any judicial or administrative action or proceeding 55653
as evidence of value with regard to prior years' taxes. 55654
Information about the business, property, or transactions of any 55655
taxpayer obtained by the commissioner for the purpose of adopting 55656
or modifying the composite annual allowances shall not be subject 55657
to discovery or disclosure. 55658

Sec. 5727.111. The taxable property of each public utility, 55659
except a railroad company, and of each interexchange 55660
telecommunications company shall be assessed at the following 55661
percentages of true value: 55662

~~(A)(1) Except as provided in division (A)(2) of this section,~~ 55663
~~fifty per cent in the case of a rural electric company;~~ 55664

~~(2) For tax year 2001 and thereafter, fifty~~ Fifty per cent in 55665
the case of the taxable transmission and distribution property of 55666
a rural electric company, and twenty-five per cent for all its 55667
other taxable property; 55668

(B) In the case of a telephone or telegraph company, 55669
twenty-five per cent for taxable property first subject to 55670
taxation in this state for tax year 1995 or thereafter, and the 55671
following for all other taxable property: 55672

(1) For tax years prior to 2005, eighty-eight per cent;	55673
(2) For tax year 2005, sixty-seven per cent;	55674
(3) For tax year 2006, forty-six per cent;	55675
(4) For tax year 2007 and thereafter, twenty-five per cent.	55676
(C) Twenty-five per cent in the case of a natural gas company.	55677 55678
(D) Eighty-eight per cent in the case of a pipe-line, water-works, or heating company;	55679 55680
(E)(1) Except as provided in division (E)(2) or (3) of this section, one hundred per cent in the case of the taxable production equipment of an electric company and eighty eight per cent for all its other taxable property;	55681 55682 55683 55684
(2) For tax year 2001 and thereafter 2005, eighty-eight per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-five per cent for all its other taxable property;	55685 55686 55687 55688
(3) Property listed and assessed under divisions (B)(1) and (2) of section 5711.22 of the Revised Code and leased to an electric company shall continue to be assessed at one hundred per cent for production equipment and eighty eight (2) For tax year <u>2006 and each tax year thereafter, eighty-five per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-four per cent for all such its other taxable property until January 1, 2002.</u>	55689 55690 55691 55692 55693 55694 55695 55696
(F) Twenty-five per cent in the case of an interexchange telecommunications company;	55697 55698
(G) Twenty-five per cent in the case of a water transportation company.	55699 55700
Sec. 5727.12. As used in this chapter, "property used in	55701

railroad operations" means property used in or determined by the tax commissioner to be held by a railroad for use in railroad operations. In determining the true value of all real and personal property owned or leased by each railroad company and used in railroad operations, the commissioner shall use the unitary method and value all of the property of the company's railroad system as a whole, considering the factors generally used in that method, and weighing each factor appropriately. The true value of the property used in railroad operations shall be apportioned to this state as provided in section 5727.14 of the Revised Code. The commissioner shall separately determine the true value of property owned by the company that the commissioner determines is not used in railroad operations. The commissioner may require the advice of county auditors concerning such values.

All property of a railroad shall be assessed for taxation at the same percentage of true value at which all other real property in this state is assessed, in the case of real property, and at the percentage of true value provided under divisions (E) ~~and~~ (F), and (G) of section 5711.22 of the Revised Code, in the case of personal property.

A determination of the value of each tract, lot, or parcel of real property or each item of personal property not used in railroad operations shall be considered a separate determination with respect to which a separate petition for reassessment may be filed under section 5727.47 of the Revised Code.

Where a line of railroad is subsidized under the terms of the federal regional rail reorganization act or the federal rail revitalization and regulatory reform act, the real and other fixed property shall be assessed solely in the name of its owner.

Sec. 5727.241. (A) As used in this section: 55731

(1) "Tax otherwise due" means the tax imposed on a taxpayer 55732

under section 5727.24 of the Revised Code reduced by the total 55733
amount of all other nonrefundable credits, if any, that the 55734
taxpayer is entitled to claim. 55735

(2) "Taxpayer" means any person subject to the tax imposed by 55736
section 5727.24 of the Revised Code. 55737

(B) Upon the issuance of a tax credit certificate by the Ohio 55738
venture capital authority under section 150.07 of the Revised 55739
Code, a credit may be claimed against the tax imposed on a 55740
taxpayer under section 5727.24 of the Revised Code. The credit 55741
shall be claimed in the calendar year specified in the certificate 55742
issued by the authority. 55743

(C) If the taxpayer elected a refundable credit under section 55744
150.07 of the Revised Code and if the amount of the credit shown 55745
on the certificate does not exceed the tax otherwise due, then for 55746
the calendar year the taxpayer shall claim a refundable credit 55747
equal to the amount of the credit shown on the certificate. 55748

(D) If the taxpayer elected a refundable credit under section 55749
150.07 of the Revised Code, and if the amount of the refundable 55750
credit shown on the certificate exceeds the tax otherwise due, 55751
then for the calendar year the taxpayer shall claim a refundable 55752
credit equal to the sum of the following: 55753

(1) The amount, if any, of the tax otherwise due; 55754

(2) Seventy-five per cent of the difference between the 55755
amount of the refundable credit shown on the certificate and the 55756
tax otherwise due. 55757

(E) If the taxpayer elected a nonrefundable credit under 55758
section 150.07 of the Revised Code and if the nonrefundable credit 55759
to which the taxpayer would otherwise be entitled under this 55760
section for any calendar year is greater than the tax otherwise 55761
due, the excess shall be allowed as a nonrefundable credit in each 55762

of the ensuing ten calendar years, but the amount of any excess 55763
nonrefundable credit allowed in the ensuing calendar year shall be 55764
deducted from the balance carried forward to the next calendar 55765
year. 55766

Sec. 5727.81. (A) For the purpose of raising revenue for 55767
public education and state and local government operations, an 55768
excise tax is hereby levied and imposed on an electric 55769
distribution company for all electricity distributed by such 55770
company ~~beginning with the measurement period that includes May 1,~~ 55771
~~2001,~~ at the following rates per kilowatt hour of electricity 55772
distributed in a thirty-day period by the company through a meter 55773
of an end user in this state: 55774

KILOWATT HOURS DISTRIBUTED	RATE PER	
TO AN END USER	KILOWATT HOUR	
For the first 2,000	\$.00465 <u>.00605</u>	55777
For the next 2,001 to 15,000	\$.00419 <u>.00545</u>	55778
For 15,001 and above	\$.00363 <u>.00472</u>	55779

If no meter is used to measure the kilowatt hours of 55780
electricity distributed by the company, the rates shall apply to 55781
the estimated kilowatt hours of electricity distributed to an 55782
unmetered location in this state. 55783

The electric distribution company shall base the monthly tax 55784
on the kilowatt hours of electricity distributed to an end user 55785
through the meter of the end user that is not measured for a 55786
thirty-day period by dividing the days in the measurement period 55787
into the total kilowatt hours measured during the measurement 55788
period to obtain a daily average usage. The tax shall be 55789
determined by obtaining the sum of divisions (A)(1), (2), and (3) 55790
of this section and multiplying that amount by the number of days 55791
in the measurement period: 55792

(1) Multiplying ~~\$.00465~~ .00605 per kilowatt hour for the 55793

first sixty-seven kilowatt hours distributed using a daily average; 55794
55795

(2) Multiplying ~~\$0.00419~~ .00545 for the next sixty-eight to five hundred kilowatt hours distributed using a daily average; 55796
55797

(3) Multiplying ~~\$0.00363~~ .00472 for the remaining kilowatt hours distributed using a daily average. 55798
55799

~~Until January 1, 2003, except as provided in division (C) of this section, the electric distribution company shall pay the tax to the treasurer of state in accordance with section 5727.82 of the Revised Code. Beginning January 1, 2003, except~~ Except as provided in division (C) of this section, the electric distribution company shall pay the tax to the tax commissioner in accordance with section 5727.82 of the Revised Code, unless required to remit each tax payment by electronic funds transfer to the treasurer of state in accordance with section 5727.83 of the Revised Code. 55800
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Only the distribution of electricity through a meter of an end user in this state shall be used by the electric distribution company to compute the amount or estimated amount of tax due. In the event a meter is not actually read for a measurement period, the estimated kilowatt hours distributed by an electric distribution company to bill for its distribution charges shall be used. 55810
55811
55812
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55814
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(B) Except as provided in division (C) of this section, each electric distribution company shall pay the tax imposed by this section in all of the following circumstances: 55817
55818
55819

(1) The electricity is distributed by the company through a meter of an end user in this state; 55820
55821

(2) The company is distributing electricity through a meter located in another state, but the electricity is consumed in this state in the manner prescribed by the tax commissioner; 55822
55823
55824

(3) The company is distributing electricity in this state 55825
without the use of a meter, but the electricity is consumed in 55826
this state as estimated and in the manner prescribed by the tax 55827
commissioner. 55828

(C)(1) As used in division (C) of this section: 55829

(a) "Total price of electricity" means the aggregate value in 55830
money of anything paid or transferred, or promised to be paid or 55831
transferred, to obtain electricity or electric service, including 55832
but not limited to the value paid or promised to be paid for the 55833
transmission or distribution of electricity and for transition 55834
costs as described in Chapter 4928. of the Revised Code. 55835

(b) "Package" means the provision or the acquisition, at a 55836
combined price, of electricity with other services or products, or 55837
any combination thereof, such as natural gas or other fuels; 55838
energy management products, software, and services; machinery and 55839
equipment acquisition; and financing agreements. 55840

(c) "Single location" means a facility located on contiguous 55841
property separated only by a roadway, railway, or waterway. 55842

(2) Division (C) of this section applies to any commercial or 55843
industrial purchaser's receipt of electricity through a meter of 55844
an end user in this state or through more than one meter at a 55845
single location in this state in a quantity that exceeds 55846
forty-five million kilowatt hours of electricity over the course 55847
of the preceding calendar year, or any commercial or industrial 55848
purchaser that will consume more than forty-five million kilowatt 55849
hours of electricity over the course of the succeeding twelve 55850
months as estimated by the tax commissioner. The tax commissioner 55851
shall make such an estimate upon the written request ~~by~~ of an 55852
applicant for registration as a self-assessing purchaser under 55853
this division. Such a purchaser may elect to self-assess the 55854
excise tax imposed by this section at the rate of \$.00075 per 55855

kilowatt hour on the first five hundred four million kilowatt 55856
hours distributed to that meter or location during the 55857
registration year, and ~~four~~ five per cent of the total price of 55858
all electricity distributed to that meter or location. A qualified 55859
end user that receives electricity through a meter of an end user 55860
in this state or through more than one meter at a single location 55861
in this state and that consumes, over the course of the previous 55862
calendar year, more than forty-five million kilowatt hours in 55863
other than its qualifying manufacturing process, may elect to 55864
self-assess the tax as allowed by this division with respect to 55865
the electricity used in other than its qualifying manufacturing 55866
process. ~~Until January 1, 2003, payment of the tax shall be made~~ 55867
~~directly to the treasurer of state in accordance with divisions~~ 55868
~~(A)(4) and (5) of section 5727.82 of the Revised Code. Beginning~~ 55869
~~January 1, 2003, payment~~ Payment of the tax shall be made directly 55870
to the tax commissioner in accordance with divisions (A)(4) and 55871
(5) of section 5727.82 of the Revised Code, or the treasurer of 55872
state in accordance with section 5727.83 of the Revised Code. If 55873
the electric distribution company serving the self-assessing 55874
purchaser is a municipal electric utility and the purchaser is 55875
within the municipal corporation's corporate limits, payment of 55876
the portion of the tax described in division (A)(3)(a) of section 55877
5727.82 of the Revised Code shall be made to such municipal 55878
corporation's general fund and reports shall be filed in 55879
accordance with divisions (A)(4) and (5) of section 5727.82 of the 55880
Revised Code, except that "municipal corporation" shall be 55881
substituted for "treasurer of state" and "tax commissioner." The 55882
remainder of the tax shall be paid directly to the tax 55883
commissioner in accordance with divisions (A)(4) and (5) of 55884
section 5727.82 of the Revised Code, or the treasurer of state in 55885
accordance with section 5727.83 of the Revised Code. A 55886
self-assessing purchaser that pays the excise tax as provided in 55887
this division shall not be required to pay the tax to the electric 55888

distribution company from which its electricity is distributed. If 55889
a self-assessing purchaser's receipt of electricity is not subject 55890
to the tax as measured under this division, the tax on the receipt 55891
of such electricity shall be measured and paid as provided in 55892
division (A) of this section. 55893

(3) In the case of the acquisition of a package, unless the 55894
elements of the package are separately stated isolating the total 55895
price of electricity from the price of the remaining elements of 55896
the package, the tax imposed under this section applies to the 55897
entire price of the package. If the elements of the package are 55898
separately stated, the tax imposed under this section applies to 55899
the total price of the electricity. 55900

(4) Any electric supplier that sells electricity as part of a 55901
package shall separately state to the purchaser the total price of 55902
the electricity and, upon request by the tax commissioner, the 55903
total price of each of the other elements of the package. 55904

(5) The tax commissioner may adopt rules relating to the 55905
computation of the total price of electricity with respect to 55906
self-assessing purchasers, which may include rules to establish 55907
the total price of electricity purchased as part of a package. 55908

(6) An annual application for registration as a 55909
self-assessing purchaser shall be made for each qualifying meter 55910
or location on a form prescribed by the tax commissioner. The 55911
registration year begins on the first day of May and ends on the 55912
following thirtieth day of April. Persons may apply after the 55913
first day of May for the remainder of the registration year. In 55914
the case of an applicant applying on the basis of an estimated 55915
consumption of forty-five million kilowatt hours over the course 55916
of the succeeding twelve months, the applicant shall provide such 55917
information as the tax commissioner considers to be necessary to 55918
estimate such consumption. At the time of making the application 55919
and by the first day of May of each year, ~~excluding May 1, 2000,~~ a 55920

self-assessing purchaser shall pay a fee of five hundred dollars 55921
to the tax commissioner, or to the treasurer of state as provided 55922
in section 5727.83 of the Revised Code, for each qualifying meter 55923
or location. The tax commissioner shall immediately pay to the 55924
treasurer of state all amounts that the tax commissioner receives 55925
under this section. The treasurer of state shall deposit such 55926
amounts into the kilowatt hour excise tax administration fund, 55927
which is hereby created in the state treasury. Money in the fund 55928
shall be used to defray the tax commissioner's cost in 55929
administering the tax owed under section 5727.81 of the Revised 55930
Code by self-assessing purchasers. After the application is 55931
approved by the tax commissioner, the registration shall remain in 55932
effect for the current registration year, or until canceled by the 55933
registrant upon written notification to the commissioner of the 55934
election to pay the tax in accordance with division (A) of this 55935
section, or until canceled by the tax commissioner for not paying 55936
the tax or fee under division (C) of this section or for not 55937
meeting the qualifications in division (C)(2) of this section. The 55938
tax commissioner shall give written notice to the electric 55939
distribution company from which electricity is delivered to a 55940
self-assessing purchaser of the purchaser's self-assessing status, 55941
and the electric distribution company is relieved of the 55942
obligation to pay the tax imposed by division (A) of this section 55943
for electricity distributed to that self-assessing purchaser until 55944
it is notified by the tax commissioner that the self-assessing 55945
purchaser's registration is canceled. Within fifteen days of 55946
notification of the canceled registration, the electric 55947
distribution company shall be responsible for payment of the tax 55948
imposed by division (A) of this section on electricity distributed 55949
to a purchaser that is no longer registered as a self-assessing 55950
purchaser. A self-assessing purchaser with a canceled registration 55951
must file a report and remit the tax imposed by division (A) of 55952
this section on all electricity it receives for any measurement 55953

period prior to the tax being reported and paid by the electric 55954
distribution company. A self-assessing purchaser whose 55955
registration is canceled by the tax commissioner is not eligible 55956
to register as a self-assessing purchaser for two years after the 55957
registration is canceled. 55958

(7) If the tax commissioner cancels the self-assessing 55959
registration of a purchaser registered on the basis of its 55960
estimated consumption because the purchaser does not consume at 55961
least forty-five million kilowatt hours of electricity over the 55962
course of the twelve-month period for which the estimate was made, 55963
the tax commissioner shall assess and collect from the purchaser 55964
the difference between (a) the amount of tax that would have been 55965
payable under division (A) of this section on the electricity 55966
distributed to the purchaser during that period, and (b) the 55967
amount of tax paid by the purchaser on such electricity pursuant 55968
to division (C)(2)(a) of this section. The assessment shall be 55969
paid within sixty days after the tax commissioner issues it, 55970
regardless of whether the purchaser files a petition for 55971
reassessment under section 5727.89 of the Revised Code covering 55972
that period. If the purchaser does not pay the assessment within 55973
the time prescribed, the amount assessed is subject to the 55974
additional charge and the interest prescribed by divisions (B) and 55975
(C) of section 5727.82 of the Revised Code, and is subject to 55976
assessment under section 5727.89 of the Revised Code. If the 55977
purchaser is a qualified end user, division (C)(7) of this section 55978
applies only to electricity it consumes in other than its 55979
qualifying manufacturing process. 55980

(D) The tax imposed by this section does not apply to the 55981
distribution of any kilowatt hours of electricity to the federal 55982
government, to an end user located at a federal facility that uses 55983
electricity for the enrichment of uranium, to a qualified 55984
regeneration meter, or to an end user for any day the end user is 55985

a qualified end user. The exemption under this division for a 55986
qualified end user only applies to the manufacturing location 55987
where the qualified end user uses more than three million kilowatt 55988
hours per day in a qualifying manufacturing process. 55989

Sec. 5727.82. (A)(1) Except as provided in divisions (A)(3) 55990
and (D) of this section, by the twentieth day of each month, each 55991
electric distribution company required to pay the tax imposed by 55992
section 5727.81 of the Revised Code shall file with the tax 55993
commissioner a return as prescribed by the tax commissioner and 55994
shall make payment of the full amount of tax due for the preceding 55995
month. The first payment of this tax shall be made on or before 55996
June 20, 2001. The electric distribution company shall make 55997
payment to the tax commissioner unless required to remit each tax 55998
payment by electronic funds transfer to the treasurer of state as 55999
provided in section 5727.83 of the Revised Code. 56000

(2) By the twentieth day of May, August, November, and 56001
February, each natural gas distribution company required to pay 56002
the tax imposed by section 5727.811 of the Revised Code shall file 56003
with the tax commissioner a return as prescribed by the tax 56004
commissioner and shall make payment to the tax commissioner, or to 56005
the treasurer of state as provided in section 5727.83 of the 56006
Revised Code, of the full amount of tax due for the preceding 56007
quarter. The first payment of this tax shall be made on or before 56008
November 20, 2001, for the quarter ending September 30, 2001. 56009

(3)(a) If the electric distribution company required to pay 56010
the tax imposed by section 5727.81 of the Revised Code is a 56011
municipal electric utility, it may retain in its general fund that 56012
portion of the tax on the kilowatt hours distributed to end users 56013
located within the boundaries of the municipal corporation, but 56014
only that portion of the tax that was imposed by division (A) or 56015
(C)(2) of section 5727.81 of the Revised Code as those divisions 56016

existed prior to their amendment by H.B. 66 of the 126th general assembly. However, the

(b) The municipal electric utility shall make payment in accordance with division (A)(1) of this section of the tax due on the kilowatt hours distributed to end users located outside the boundaries of the municipal corporation, and of the remainder of the tax due under division (A)(3)(a) of this section that was not retained in the general fund of the municipal electric utility.

(4) By the twentieth day of each month, each self-assessing purchaser that under division (C) of section 5727.81 of the Revised Code pays directly to the tax commissioner or the treasurer of state the tax imposed by section 5727.81 of the Revised Code shall file with the tax commissioner a return as prescribed by the tax commissioner and shall make payment of the full amount of the tax due for the preceding month.

(5) As prescribed by the tax commissioner, a return shall be signed by the company or self-assessing purchaser required to file it, or an authorized employee, officer, or agent of the company or purchaser. The return shall be deemed filed when received by the tax commissioner.

(B) Any natural gas distribution company, electric distribution company, or self-assessing purchaser required by this section to file a return who fails to file it and pay the tax within the period prescribed shall pay an additional charge of fifty dollars or ten per cent of the tax required to be paid for the reporting period, whichever is greater. The tax commissioner may collect the additional charge by assessment pursuant to section 5727.89 of the Revised Code. The commissioner may abate all or a portion of the additional charge and may adopt rules governing such abatements.

(C) If any tax due is not paid timely in accordance with this

section, the natural gas distribution company, electric
distribution company, or self-assessing purchaser liable for the
tax 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 is issued, whichever occurs first. Interest shall be
paid in the same manner as the tax, and the commissioner may
collect the interest by assessment pursuant to section 5727.89 of
the Revised Code.

(D) Not later than the tenth day of each month, a qualified
end user not making the election to self-assess under division (C)
of section 5727.81 of the Revised Code shall report in writing to
the electric distribution company that distributes electricity to
the end user the kilowatt hours that were consumed as a qualified
end user in a qualifying manufacturing process for the prior month
and the number of days, if any, on which the end user was not a
qualified end user. For each calendar day during that month, a
qualified end user shall report the kilowatt hours that were not
used in a qualifying manufacturing process. For each calendar day
the end user was not a qualified end user, the end user shall
report in writing to the electric distribution company the total
number of kilowatt hours used on that day, and the electric
distribution company shall pay the tax imposed under section
5727.81 of the Revised Code on each kilowatt hour that was not
distributed to a qualified end user in a qualifying manufacturing
process. The electric distribution company may rely in good faith
on a qualified end user's report filed under this division. If it
is determined that the end user was not a qualified end user for
any calendar day or the quantity of electricity used by the
qualified end user in a qualifying manufacturing process was
overstated, the tax commissioner shall assess and collect any tax
imposed under section 5727.81 of the Revised Code directly from

the qualified end user. As requested by the commissioner, each end user reporting to an electric distribution company that it is a qualified end user shall provide documentation to the commissioner that establishes the volume of electricity consumed daily by the qualified end user and the total number of kilowatt hours consumed in a qualifying manufacturing process.

(E) 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 credit such amounts in accordance with this chapter.

Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted village school district.

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid" means the sum of state aid amounts computed for a school district or joint vocational school district under Chapter 3317. of the Revised Code.

(5) "State education aid offset" means the amount determined

for each school district or joint vocational school district under 56110
division (A)(1) of section 5727.85 of the Revised Code. 56111

(6) "Recognized valuation" has the same meaning as in section 56112
3317.02 of the Revised Code. 56113

(7) "Electric company tax value loss" means the amount 56114
determined under division (D) of this section. 56115

(8) "Natural gas company tax value loss" means the amount 56116
determined under division (E) of this section. 56117

(9) "Tax value loss" means the sum of the electric company 56118
tax value loss and the natural gas company tax value loss. 56119

(10) "Fixed-rate levy" means any tax levied on property other 56120
than a fixed-sum levy. 56121

(11) "Fixed-rate levy loss" means the amount determined under 56122
division (G) of this section. 56123

(12) "Fixed-sum levy" means a tax levied on property at 56124
whatever rate is required to produce a specified amount of tax 56125
money or levied in excess of the ten-mill limitation to pay debt 56126
charges, and includes school district emergency levies imposed 56127
pursuant to section 5705.194 of the Revised Code. 56128

(13) "Fixed-sum levy loss" means the amount determined under 56129
division (H) of this section. 56130

(14) "Consumer price index" means the consumer price index 56131
(all items, all urban consumers) prepared by the bureau of labor 56132
statistics of the United States department of labor. 56133

(B) The kilowatt-hour tax receipts fund is hereby created in 56134
the state treasury and shall consist of money arising from the tax 56135
imposed by section 5727.81 of the Revised Code. ~~All Beginning~~ 56136
August 1, 2005, all money in the kilowatt-hour tax receipts fund 56137
shall be credited as follows: 56138

(1) ~~Fifty-nine~~ Sixty-nine and ~~nine~~ two hundred ~~seventy-six~~ thirteen one-thousandths per cent, shall be credited to the general revenue fund.

(2) Two and ~~six hundred forty-six~~ thirty-five one-thousandths per cent shall be credited to the local government fund, for distribution in accordance with section 5747.50 of the Revised Code.

(3) ~~Three~~ Two hundred ~~seventy-eight~~ ninety-one one-thousandths per cent shall be credited to the local government revenue assistance fund, for distribution in accordance with section 5747.61 of the Revised Code.

(4) ~~Twenty-five~~ Nineteen and ~~four-tenths~~ five hundred thirty-eight one-thousandths per cent shall be credited to the school district property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.85 of the Revised Code.

(5) ~~Eleven~~ Eight and ~~six-tenths~~ nine hundred twenty-three one-thousandths per cent shall be credited to the local government property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.86 of the Revised Code.

~~(6) In fiscal years 2002, 2003, 2004, 2005, and 2006, if the revenue arising from the tax levied by section 5727.81 of the Revised Code is less than five hundred fifty two million dollars, the amount credited to the general revenue fund under division (B)(1) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (B)(2) and (3) of this section the amount it would have received if the tax did raise five hundred fifty two million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and management the amounts that shall be credited under this division.~~

~~(7) Beginning in fiscal year 2007, if the revenue arising from the tax levied by section 5727.81 of the Revised Code is less than five hundred fifty two million dollars, the amount credited to the general revenue fund under division (B)(1) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (B)(2), (3), (4), and (5) of this section the amount that it would have received if the tax did raise five hundred fifty two million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and management the amounts to be credited under division (B)(7) of this section.~~

(C) The natural gas tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.811 of the Revised Code. All money in the fund shall be credited as follows:

(1) Sixty-eight and seven-tenths per cent shall be credited to the school district property tax replacement fund for the purpose of making the payments described in section 5727.85 of the Revised Code.

(2) Thirty-one and three-tenths per cent shall be credited to the local government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code.

~~(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 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~~ 56201
~~shall be transferred under this division.~~ 56202

(D) Not later than January 1, 2002, the tax commissioner 56203
shall determine for each taxing district its electric company tax 56204
value loss, which is the sum of the applicable amounts described 56205
in divisions (D)(1) to (3) of this section: 56206

(1) The difference obtained by subtracting the amount 56207
described in division (D)(1)(b) from the amount described in 56208
division (D)(1)(a) of this section. 56209

(a) The value of electric company and rural electric company 56210
tangible personal property as assessed by the tax commissioner for 56211
tax year 1998 on a preliminary assessment, or an amended 56212
preliminary assessment if issued prior to March 1, 1999, and as 56213
apportioned to the taxing district for tax year 1998; 56214

(b) The value of electric company and rural electric company 56215
tangible personal property as assessed by the tax commissioner for 56216
tax year 1998 had the property been apportioned to the taxing 56217
district for tax year 2001, and assessed at the rates in effect 56218
for tax year 2001. 56219

(2) The difference obtained by subtracting the amount 56220
described in division (D)(2)(b) from the amount described in 56221
division (D)(2)(a) of this section. 56222

(a) The three-year average for tax years 1996, 1997, and 1998 56223
of the assessed value from nuclear fuel materials and assemblies 56224
assessed against a person under Chapter 5711. of the Revised Code 56225
from the leasing of them to an electric company for those 56226
respective tax years, as reflected in the preliminary assessments; 56227

(b) The three-year average assessed value from nuclear fuel 56228
materials and assemblies assessed under division (D)(2)(a) of this 56229
section for tax years 1996, 1997, and 1998, as reflected in the 56230

preliminary assessments, using an assessment rate of twenty-five per cent. 56231
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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. 56233
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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; 56240
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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. 56245
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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: 56250
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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. 56254
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56256

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing 56257
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district for tax year 1999; 56262

(b) The value of all natural gas company tangible personal 56263
property, other than property described in division (E)(2) of this 56264
section, as assessed by the tax commissioner for tax year 1999 had 56265
the property been apportioned to the taxing district for tax year 56266
2001, and assessed at the rates in effect for tax year 2001. 56267

(2) The difference in the value of current gas obtained by 56268
subtracting the amount described in division (E)(2)(b) from the 56269
amount described in division (E)(2)(a) of this section. 56270

(a) The three-year average assessed value of current gas as 56271
assessed by the tax commissioner for tax years 1997, 1998, and 56272
1999 on a preliminary assessment, or an amended preliminary 56273
assessment if issued prior to March 1, 2001, and as apportioned in 56274
the taxing district for those respective years; 56275

(b) The three-year average assessed value from current gas 56276
under division (E)(2)(a) of this section for tax years 1997, 1998, 56277
and 1999, as reflected in the preliminary assessment, using an 56278
assessment rate of twenty-five per cent. 56279

(F) The tax commissioner may request that natural gas 56280
companies, electric companies, and rural electric companies file a 56281
report to help determine the tax value loss under divisions (D) 56282
and (E) of this section. The report shall be filed within thirty 56283
days of the commissioner's request. A company that fails to file 56284
the report or does not timely file the report is subject to the 56285
penalty in section 5727.60 of the Revised Code. 56286

(G) Not later than January 1, 2002, the tax commissioner 56287
shall determine for each school district, joint vocational school 56288
district, and local taxing unit its fixed-rate levy loss, which is 56289
the sum of its electric company tax value loss multiplied by the 56290
tax rate in effect in tax year 1998 for fixed-rate levies and its 56291
natural gas company tax value loss multiplied by the tax rate in 56292

effect in tax year 1999 for fixed-rate levies. 56293

(H) Not later than January 1, 2002, the tax commissioner 56294
shall determine for each school district, joint vocational school 56295
district, and local taxing unit its fixed-sum levy loss, which is 56296
the amount obtained by subtracting the amount described in 56297
division (H)(2) of this section from the amount described in 56298
division (H)(1) of this section: 56299

(1) The sum of the electric company tax value loss multiplied 56300
by the tax rate in effect in tax year 1998, and the natural gas 56301
company tax value loss multiplied by the tax rate in effect in tax 56302
year 1999, for fixed-sum levies for all taxing districts within 56303
each school district, joint vocational school district, and local 56304
taxing unit. For the years 2002 through 2006, this computation 56305
shall include school district emergency levies that existed in 56306
1998 in the case of the electric company tax value loss, and 1999 56307
in the case of the natural gas company tax value loss, and all 56308
other fixed-sum levies that existed in 1998 in the case of the 56309
electric company tax value loss and 1999 in the case of the 56310
natural gas company tax value loss and continue to be charged in 56311
the tax year preceding the distribution year. For the years 2007 56312
through 2016 in the case of school district emergency levies, and 56313
for all years after 2006 in the case of all other fixed-sum 56314
levies, this computation shall exclude all fixed-sum levies that 56315
existed in 1998 in the case of the electric company tax value loss 56316
and 1999 in the case of the natural gas company tax value loss, 56317
but are no longer in effect in the tax year preceding the 56318
distribution year. For the purposes of this section, an emergency 56319
levy that existed in 1998 in the case of the electric company tax 56320
value loss, and 1999 in the case of the natural gas company tax 56321
value loss, continues to exist in a year beginning on or after 56322
January 1, 2007, but before January 1, 2017, if, in that year, the 56323
board of education levies a school district emergency levy for an 56324

annual sum at least equal to the annual sum levied by the board in 56325
tax year 1998 or 1999, respectively, less the amount of the 56326
payment certified under this division for 2002. 56327

(2) The total taxable value in tax year 1999 less the tax 56328
value loss in each school district, joint vocational school 56329
district, and local taxing unit multiplied by one-fourth of one 56330
mill. 56331

If the amount computed under division (H) of this section for 56332
any school district, joint vocational school district, or local 56333
taxing unit is greater than zero, that amount shall equal the 56334
fixed-sum levy loss reimbursed pursuant to division (E) of section 56335
5727.85 of the Revised Code or division (A)(2) of section 5727.86 56336
of the Revised Code, and the one-fourth of one mill that is 56337
subtracted under division (H)(2) of this section shall be 56338
apportioned among all contributing fixed-sum levies in the 56339
proportion of each levy to the sum of all fixed-sum levies within 56340
each school district, joint vocational school district, or local 56341
taxing unit. 56342

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 56343
section, in computing the tax value loss, fixed-rate levy loss, 56344
and fixed-sum levy loss, the tax commissioner shall use the 56345
greater of the 1998 tax rate or the 1999 tax rate in the case of 56346
levy losses associated with the electric company tax value loss, 56347
but the 1999 tax rate shall not include for this purpose any tax 56348
levy approved by the voters after June 30, 1999, and the tax 56349
commissioner shall use the greater of the 1999 or the 2000 tax 56350
rate in the case of levy losses associated with the natural gas 56351
company tax value loss. 56352

(J) Not later than January 1, 2002, the tax commissioner 56353
shall certify to the department of education the tax value loss 56354
determined under divisions (D) and (E) of this section for each 56355

taxing district, the fixed-rate levy loss calculated under 56356
division (G) of this section, and the fixed-sum levy loss 56357
calculated under division (H) of this section. The calculations 56358
under divisions (G) and (H) of this section shall separately 56359
display the levy loss for each levy eligible for reimbursement. 56360

(K) Not later than September 1, 2001, the tax commissioner 56361
shall certify the amount of the fixed-sum levy loss to the county 56362
auditor of each county in which a school district with a fixed-sum 56363
levy loss has territory. 56364

Sec. 5727.85. (A) By the thirty-first day of July of each 56365
year, beginning in 2002 and ending in 2016, the department of 56366
education shall determine the following for each school district 56367
and each joint vocational school district eligible for payment 56368
under division (C) or (D) of this section: 56369

(1) The state education aid offset, which is the difference 56370
obtained by subtracting the amount described in division (A)(1)(b) 56371
of this section from the amount described in division (A)(1)(a) of 56372
this section: 56373

(a) The state education aid computed for the school district 56374
or joint vocational school district for the current fiscal year as 56375
of the thirty-first day of July; 56376

(b) The state education aid that would be computed for the 56377
school district or joint vocational school district for the 56378
current fiscal year as of the thirty-first day of July if the 56379
recognized valuation included the tax value loss for the school 56380
district or joint vocational school district. 56381

(2) The greater of zero or the difference obtained by 56382
subtracting the state education aid offset determined under 56383
division (A)(1) of this section from the fixed-rate levy loss 56384
certified under division (J) of section 5727.84 of the Revised 56385

Code for all taxing districts in each school district and joint vocational school district. 56386
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By the fifth day of August of each such year, the department of education shall certify the amount so determined under division (A)(1) of this section to the director of budget and management. 56388
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(B) Not later than the thirty-first day of October of the years 2006 through 2016, the department of education shall determine all of the following for each school district: 56391
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(1) The amount obtained by subtracting the district's state education aid computed for fiscal year 2002 from the district's state education aid computed for the current fiscal year; 56394
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(2) The inflation-adjusted property tax loss. The inflation-adjusted property tax loss equals the fixed-rate levy loss, excluding the tax loss from levies within the ten-mill limitation to pay debt charges, determined under division (G) of section 5727.84 of the Revised Code for all taxing districts in each school district, plus the product obtained by multiplying that loss by the cumulative percentage increase in the consumer price index from January 1, 2002, to the thirtieth day of June of the current year. 56397
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(3) The difference obtained by subtracting the amount computed under division (B)(1) from the amount of the inflation-adjusted property tax loss. If this difference is zero or a negative number, no further payments shall be made under division (C) of this section to the school district from the school district property tax replacement fund. 56406
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(C) The department of education shall pay from the school district property tax replacement fund to each school district all of the following: 56412
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(1) In February 2002, one-half of the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised 56415
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Code between the twenty-first and twenty-eighth days of February. 56417

(2) From August 2002 through August 2006, one-half of the 56418
amount calculated for that fiscal year under division (A)(2) of 56419
this section between the twenty-first and twenty-eighth days of 56420
August and of February. 56421

(3) From February 2007 through August 2016, one-half of the 56422
amount calculated for that calendar year under division (B)(3) of 56423
this section between the twenty-first and twenty-eighth days of 56424
August and of February. 56425

(4) For taxes levied within the ten-mill limitation for debt 56426
purposes in tax year 1998 in the case of electric company tax 56427
value losses, and in tax year 1999 in the case of natural gas 56428
company tax value losses, payments shall be made equal to one 56429
hundred per cent of the loss computed as if the tax were a 56430
fixed-rate levy, but those payments shall extend from fiscal year 56431
2006 through fiscal year 2016. 56432

The department of education shall report to each school 56433
district the apportionment of the payments among the school 56434
district's funds based on the certifications under division (J) of 56435
section 5727.84 of the Revised Code. 56436

(D) Not later than January 1, 2002, for all taxing districts 56437
in each joint vocational school district, the tax commissioner 56438
shall certify to the department of education the fixed-rate levy 56439
loss determined under division (G) of section 5727.84 of the 56440
Revised Code. From February 2002 to August 2016, the department 56441
shall pay from the school district property tax replacement fund 56442
to the joint vocational school district one-half of the amount 56443
calculated for that fiscal year under division (A)(2) of this 56444
section between the twenty-first and twenty-eighth days of August 56445
and of February. 56446

(E)(1) Not later than January 1, 2002, for each fixed-sum 56447

levy levied by each school district or joint vocational school 56448
district and for each year for which a determination is made under 56449
division (H) of section 5727.84 of the Revised Code that a 56450
fixed-sum levy loss is to be reimbursed, the tax commissioner 56451
shall certify to the department of education the fixed-sum levy 56452
loss determined under that division. The certification shall cover 56453
a time period sufficient to include all fixed-sum levies for which 56454
the tax commissioner made such a determination. The department 56455
shall pay from the school district property tax replacement fund 56456
to the school district or joint vocational school district 56457
one-half of the fixed-sum levy loss so certified for each year 56458
between the twenty-first and twenty-eighth days of August and of 56459
February. 56460

(2) Beginning in 2003, by the thirty-first day of January of 56461
each year, the tax commissioner shall review the certification 56462
originally made under division (E)(1) of this section. If the 56463
commissioner determines that a debt levy that had been scheduled 56464
to be reimbursed in the current year has expired, a revised 56465
certification for that and all subsequent years shall be made to 56466
the department of education. 56467

(F) If the balance of the half-mill equalization fund created 56468
under section 3318.111 of the Revised Code is insufficient to make 56469
the full amount of payments required under division (D) of that 56470
section, the department of education, at the end of the third 56471
quarter of the fiscal year, shall certify to the director of 56472
budget and management the amount of the deficiency, and the 56473
director shall transfer an amount equal to the deficiency from the 56474
school district property tax replacement fund to the half-mill 56475
equalization fund. 56476

(G) Beginning in August 2002, and ending in ~~February~~ May 56477
2017, the director of budget and management shall transfer from 56478
the school district property tax replacement fund to the general 56479

revenue fund each of the following: 56480

(1) Between the twenty-eighth day of August and the fifth day 56481
of September, the lesser of one-half of the amount certified for 56482
that fiscal year under division (A)(2) of this section or the 56483
balance in the school district property tax replacement fund; 56484

(2) Between the first and fifth days of ~~March~~ May, the lesser 56485
of one-half of the amount certified for that fiscal year under 56486
division (A)(2) of this section or the balance in the school 56487
district property tax replacement fund. 56488

~~(G) By August 5, 2002, the tax commissioner shall estimate 56489
the amount of money in the school district property tax 56490
replacement fund in excess of the amount necessary to make 56491
payments under divisions (C), (D), (E), and (F) of this section. 56492
Notwithstanding division (C) of this section, the department of 56493
education, in consultation with the tax commissioner and from 56494
those excess funds, may pay any school district four and one half 56495
times the amount certified under division (A)(2) of this section. 56496
Payments shall be made in order from the smallest annual loss to 56497
the largest annual loss. A payment made under this division shall 56498
be in lieu of the payment to be made in August 2002 under division 56499
(C)(2) of this section. No payments shall be made in the manner 56500
established in this division to any school district with annual 56501
losses from permanent improvement fixed rate levies in excess of 56502
twenty thousand dollars, or annual losses from any other 56503
fixed rate levies in excess of twenty thousand dollars. A school 56504
district receiving a payment under this division is no longer 56505
entitled to any further payments under division (C) of this 56506
section. 56507~~

~~(H) On the thirty first day of July of 2003, 2004, 2005, and 56508
2006, and on the thirty first day of January and July of 2007 and 56509
each year thereafter, if the amount credited to the school 56510
district property tax replacement fund exceeds the amount needed 56511~~

~~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 the general revenue fund to the school district property tax replacement fund the difference between the total amount to be paid and the total amount in the school district property tax

replacement fund, except that no transfer shall be made by reason 56543
of a deficiency to the extent that it results from the amendment 56544
of section 5727.84 of the Revised Code by Amended Substitute House 56545
Bill No. 95 of the 125th general assembly. 56546

(J) If all ~~or a part~~ of the territory of a school district or 56547
joint vocational school district is merged with an existing 56548
district, or if a part of the territory of a school district or 56549
joint vocational school district is transferred to ~~another~~ an 56550
existing or new district, the department of education, in 56551
consultation with the tax commissioner, shall adjust the payments 56552
made under this section ~~to each of the districts in proportion to~~ 56553
~~the tax value loss apportioned to the merged or transferred~~ 56554
territory as follows: 56555

(1) For the merger of all of the territory of two or more 56556
districts, the fixed-rate levy loss and the fixed-sum levy loss of 56557
the successor district shall be equal to the sum of the fixed-rate 56558
levy losses and the fixed-sum levy losses for each of the 56559
districts involved in the merger. 56560

(2) For the transfer of a part of one district's territory to 56561
an existing district, the amount of the fixed-rate levy loss that 56562
is transferred to the recipient district shall be an amount equal 56563
to the transferring district's total fixed-rate levy loss times a 56564
fraction, the numerator of which is the value of electric company 56565
tangible personal property located in the part of the territory 56566
that was transferred, and the denominator of which is the total 56567
value of electric company tangible personal property located in 56568
the entire district from which the territory was transferred. The 56569
value of electric company tangible personal property under this 56570
division shall be determined for the most recent year for which 56571
data is available. Fixed-sum levy losses for both districts shall 56572
be determined under division (J)(4) of this section. 56573

(3) For the transfer of a part of the territory of one or 56574

more districts to create a new district:

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(a) If the new district is created on or after January 1, 2000, but before January 1, 2005, the new district shall be paid its current fixed-rate levy loss through August 2006. From February 2007 to August 2016, the new district shall be paid the lesser of: (i) the amount calculated under division (B) of this section or (ii) an amount determined under the schedule in division (A)(1) of section 5727.86 of the Revised Code, as if for this purpose the new district was a local taxing unit under that section. Fixed-sum levy losses for the districts shall be determined under division (J)(4) of this section.

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(b) If the new district is created on or after January 1, 2005, the new district shall be deemed not to have any fixed-rate levy loss or, except as provided in division (J)(4) of this section, fixed-sum levy loss. The district or districts from which the territory was transferred shall have no reduction in their fixed-rate levy loss, or, except as provided in division (J)(4) of this section, their fixed-sum levy loss.

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(4) If a recipient district under division (J)(2) of this section or a new district under division (J)(3)(a) or (b) of this section takes on debt from one or more of the districts from which territory was transferred, and any of the districts transferring the territory had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy losses.

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(K) There is hereby created the public utility property tax study committee, effective January 1, 2011. The committee shall consist of the following seven members: the tax commissioner, three members of the senate appointed by the president of the senate, and three members of the house of representatives appointed by the speaker of the house of representatives. The

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appointments shall be made not later than January 31, 2011. The 56606
tax commissioner shall be the chairperson of the committee. 56607

The committee shall study the extent to which each school 56608
district or joint vocational school district has been compensated, 56609
under sections 5727.84 and 5727.85 of the Revised Code as enacted 56610
by Substitute Senate Bill No. 3 of the 123rd general assembly and 56611
any subsequent acts, for the property tax loss caused by the 56612
reduction in the assessment rates for natural gas, electric, and 56613
rural electric company tangible personal property. Not later than 56614
June 30, 2011, the committee shall issue a report of its findings, 56615
including any recommendations for providing additional 56616
compensation for the property tax loss or regarding remedial 56617
legislation, to the president of the senate and the speaker of the 56618
house of representatives, at which time the committee shall cease 56619
to exist. 56620

The department of taxation and department of education shall 56621
provide such information and assistance as is required for the 56622
committee to carry out its duties. 56623

Sec. 5728.01. As used in sections 5728.02 to 5728.14 of the 56624
Revised Code: 56625

(A) "Motor vehicle" means everything on wheels that is 56626
self-propelled, other than by muscular power or power collected 56627
from electric trolley wires and other than vehicles or machinery 56628
not designed for or employed in general highway transportation, 56629
used to transport or propel persons or property over a public 56630
highway. 56631

(B) "Commercial car" means any motor vehicle used for 56632
transporting persons or property, wholly on its own structure on a 56633
public highway. 56634

(C) "Commercial tractor" means any motor vehicle designed and 56635

used to propel or draw a trailer or semi-trailer or both on a 56636
public highway without having any provision for carrying loads 56637
independently of such trailer or semi-trailer. 56638

(D) "Trailer" means everything on wheels that is not 56639
self-propelled, except vehicles or machinery not designed for or 56640
employed in general highway transportation, used for carrying 56641
property wholly on its own structure and for being drawn by a 56642
motor vehicle on a public highway, including any such vehicle when 56643
formed by or operated as a combination of a semi-trailer and a 56644
vehicle of the dolly type such as that commonly known as a trailer 56645
dolly. "Trailer" does not include manufactured homes as defined in 56646
division (C)(4) of section 3781.06 of the Revised Code or mobile 56647
homes as defined in division (O) of section 4501.01 of the Revised 56648
Code. 56649

(E) "Semi-trailer" means everything on wheels that is not 56650
self-propelled, except vehicles or machinery not designed for or 56651
employed in general highway transportation, designed and used for 56652
carrying property on a public highway when being propelled or 56653
drawn by a commercial tractor when part of its own weight or the 56654
weight of its load, or both, rest upon and is carried by a 56655
commercial tractor. 56656

(F) "Commercial tandem" means any commercial car and trailer 56657
or any commercial tractor, semi-trailer, and trailer when fastened 56658
together and used as one unit. 56659

(G) "Commercial tractor combination" means any commercial 56660
tractor and semi-trailer when fastened together and used as one 56661
unit. 56662

(H) "Axle" means two or more load carrying wheels mounted in 56663
a single transverse vertical plane. 56664

(I) "Public highway" means any highway, road, or street 56665
dedicated to public use, including a highway under the control and 56666

jurisdiction of the Ohio turnpike commission created by the 56667
provisions of section 5537.02 of the Revised Code and land and 56668
lots over which the public, either as user or owner, generally has 56669
a right to pass even though such land or lots are closed 56670
temporarily by public authorities for the purpose of construction, 56671
reconstruction, maintenance, or repair. 56672

(J) "Jurisdiction" means a state of the United States, the 56673
District of Columbia, or a province or territory of Canada. 56674

Sec. 5728.02. (A) Except as provided in section 5728.03 of 56675
the Revised Code, every person who is liable for the tax imposed 56676
by section 5728.06 of the Revised Code on the operation of a 56677
commercial car ~~with three or more axles when operated alone or as~~ 56678
~~part of a commercial tandem, a commercial car with two axles that~~ 56679
~~is to be operated as part of a commercial tandem with a gross~~ 56680
~~vehicle weight or a registered gross vehicle weight exceeding~~ 56681
~~twenty six thousand pounds,~~ or a commercial tractor that is, or is 56682
to be, operated or driven upon a public highway in two or more 56683
jurisdictions shall cause to be filed annually with the tax 56684
commissioner ~~a written~~ an application for a fuel use permit ~~on~~ 56685
~~blank forms~~ to be furnished by the commissioner for that purpose. 56686

Each application for a fuel use permit for a commercial car 56687
or a commercial tractor shall contain any information the tax 56688
commissioner prescribes. 56689

(B) Upon receipt of the application, the tax commissioner 56690
shall issue to the person making the application a fuel use permit 56691
and any identification device that the commissioner considers 56692
necessary for the proper administration of this chapter. The 56693
permit and the identification device shall be of a design and 56694
contain any information the commissioner considers necessary. The 56695
identification device shall be displayed on the commercial car or 56696
commercial tractor for which it was issued at all times in the 56697

manner the commissioner prescribes. The fuel use permits and the 56698
identification device shall not be transferable. In case of the 56699
loss of a fuel use permit or identification device, the 56700
commissioner shall issue a duplicate of the permit or device. 56701

The fuel use permit shall be valid until it expires or is 56702
suspended or surrendered. 56703

Sec. 5728.03. (A) In lieu of filing an application for an 56704
annual fuel use permit under section 5728.02 of the Revised Code 56705
and in lieu of filing returns under section 5728.08 of the Revised 56706
Code, a person who is the owner of a commercial car ~~with three or~~ 56707
~~more axles when operated alone or as part of a commercial tandem,~~ 56708
~~a commercial car with two axles that is to be operated as part of~~ 56709
~~a commercial tandem with a gross vehicle weight or a registered~~ 56710
~~gross vehicle weight exceeding twenty six thousand pounds,~~ or a 56711
commercial tractor that would otherwise be liable for the tax 56712
imposed by section 5728.06 of the Revised Code, that is, or is to 56713
be, operated or driven upon a public highway, may file an 56714
application with the tax commissioner for a single-trip fuel use 56715
permit. The application shall be based on rules adopted by the tax 56716
commissioner and shall include an amount estimated to be 56717
substantially equivalent to the fuel use tax liability that the 56718
applicant will incur by driving on the highways of this state 56719
during the period covered by the single-trip permit. The amount so 56720
estimated shall be considered to be the fuel use tax liability so 56721
incurred. 56722

The commissioner may authorize independent permit services or 56723
other persons to issue single-trip fuel use permits. 56724

(B) The tax commissioner shall adopt rules establishing all 56725
of the following: 56726

(1) Procedures for the issuance of single-trip permits; 56727

(2) The length of time the permits are effective; 56728

(3) Requirements that independent permit services or other persons must meet to be authorized to issue single-trip fuel use permits and procedures for obtaining that authorization; 56729
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(4) Estimates of the amount substantially equivalent to the fuel use tax liability that an applicant will incur by driving on the highways of this state during the period covered by the permit. 56732
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(C) No person whose fuel use permit issued under section 5728.02 of the Revised Code is currently under suspension in accordance with section 5728.11 of the Revised Code shall be issued a single-trip fuel use permit under this section. 56736
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(D) All moneys collected pursuant to this section shall be deposited in the state treasury in accordance with section 5728.08 of the Revised Code. 56740
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Sec. 5728.04. (A) It is unlawful for any person to operate a commercial car ~~with three or more axles when operated alone or as part of a commercial tandem, a commercial car with two axles that is to be operated as part of a commercial tandem with a gross vehicle weight or a registered gross vehicle weight exceeding twenty six thousand pounds,~~ or a commercial tractor ~~when operated alone or as part of a commercial tractor combination or commercial tandem that is subject to the tax imposed by section 5728.06 of the Revised Code~~ on a public highway in two or more jurisdictions under either of the following circumstances: 56743
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(1) Without a fuel use permit or single trip fuel use permit for such commercial car or commercial tractor. 56753
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(2) With a suspended or surrendered fuel use permit for such commercial car or commercial tractor. 56755
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(B) The judge or magistrate of any court finding any person 56757

guilty of unlawfully operating a commercial car or commercial tractor as provided for in this section shall immediately notify the tax commissioner of such violation and shall transmit to the tax commissioner the name and the permanent address of the owner of the commercial car or commercial tractor operated in violation of this section, the registration number, the state of registration, and the certificate of title number of the commercial car or commercial tractor. The commercial car or commercial tractor involved in a violation of division (A)(1) or (2) of this section may be detained until a valid fuel use permit is obtained or reinstated.

Sec. 5728.06. (A) For the following purposes, an excise tax is hereby imposed on the use of motor fuel to operate on the public highways of this state a commercial car with three or more axles, regardless of weight, operated alone or as part of a commercial tandem, a commercial car with two axles ~~operated as part of a commercial tandem~~ having a gross vehicle weight or registered gross vehicle weight exceeding twenty-six thousand pounds operated alone or as part of a commercial tandem, or a commercial tractor operated alone or as part of a commercial tractor combination or commercial tandem: to provide revenue for maintaining the state highway system, to widen existing surfaces on such highways, to resurface such highways, to enable the counties of the state properly to plan for, maintain, and repair their roads, to enable the municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to pay that portion of the construction cost of a highway project that a county, township, or municipal corporation normally would be required to pay, but that the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to

maintain and repair bridges and viaducts; to purchase, erect, and 56790
maintain street and traffic signs and markers; to purchase, erect, 56791
and maintain traffic lights and signals; to pay the costs 56792
apportioned to the public under section 4907.47 of the Revised 56793
Code; and to supplement revenue already available for such 56794
purposes, to distribute equitably among those persons using the 56795
privilege of driving motor vehicles upon such highways and streets 56796
the cost of maintaining and repairing the same, and to pay the 56797
interest, principal, and charges on bonds and other obligations 56798
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 56799
and sections 5528.30 and 5528.31 of the Revised Code. The tax is 56800
imposed in the same amount as the motor fuel tax imposed under 56801
Chapter 5735. of the Revised Code plus an additional tax of three 56802
cents per gallon of motor fuel used before July 1, 2004, provided 56803
that the additional tax shall be reduced to two cents per gallon 56804
of motor fuel used from July 1, 2004 through June 30, 2005, as 56805
determined by the gallons consumed while operated on the public 56806
highways of this state. Subject to section 5735.292 of the Revised 56807
Code, on and after July 1, 2005, the tax shall be imposed in the 56808
same amount as the motor fuel tax imposed under Chapter 5735. of 56809
the Revised Code. Payment of the fuel use tax shall be made by the 56810
purchase of motor fuel within Ohio of such gallons as is 56811
equivalent to the gallons consumed while operating such a motor 56812
vehicle on the public highways of this state, or by direct 56813
remittance to the treasurer of state with the fuel use tax return 56814
filed pursuant to section 5728.08 of the Revised Code. 56815

Any person subject to the tax imposed under this section who 56816
purchases motor fuel in this state for use in another state in 56817
excess of the amount consumed while operating such motor vehicle 56818
on the public highways of this state shall be allowed a credit 56819
against the tax imposed by this section or a refund equal to the 56820
motor fuel tax paid to this state on such excess. No such credit 56821
or refund shall be allowed for taxes paid to any state that 56822

imposes a tax on motor fuel purchased or obtained in this state 56823
and used on the highways of such other state but does not allow a 56824
similar credit or refund for the tax paid to this state on motor 56825
fuel purchased or acquired in the other state and used on the 56826
public highways of this state. 56827

The tax commissioner is authorized to determine whether such 56828
credits or refunds are available and to prescribe such rules as 56829
are required for the purpose of administering this chapter. 56830

(B) Within sixty days after the last day of each month, the 56831
tax commissioner shall determine the amount of motor fuel tax 56832
allowed as a credit against the tax imposed by this section. The 56833
commissioner shall certify the amount to the director of budget 56834
and management and the treasurer of state, who shall credit the 56835
amount in accordance with section 5728.08 of the Revised Code from 56836
current revenue arising from the tax levied by section 5735.05 of 56837
the Revised Code. 56838

(C) The owner of each commercial car and commercial tractor 56839
subject to sections 5728.01 to 5728.14 of the Revised Code is 56840
liable for the payment of the full amount of the taxes imposed by 56841
this section. 56842

An owner who is a person regularly engaged, for compensation, 56843
in the business of leasing or renting motor vehicles without 56844
furnishing drivers may designate that the lessee of a motor 56845
vehicle leased for a period of thirty days or more shall report 56846
and pay the tax incurred during the duration of the lease. An 56847
owner who is an independent contractor that furnishes both the 56848
driver and motor vehicle, may designate that the person so 56849
furnished with the driver and motor vehicle for a period of thirty 56850
days or more shall report and pay the tax incurred during that 56851
period. An independent contractor that is not an owner, but that 56852
furnishes both the driver and motor vehicle and that has been 56853

designated by the owner of the motor vehicle to report and pay the 56854
tax, may designate that the person so furnished with driver and 56855
motor vehicle for a period of thirty days or more shall report and 56856
pay the tax incurred during that period. 56857

Sec. 5728.08. Except as provided in section 5728.03 of the 56858
Revised Code ~~and except as otherwise provided in this section,~~ 56859
whoever is liable for the payment of the tax levied by section 56860
5728.06 of the Revised Code, on or before the last day of each 56861
January, April, July, and October, shall file with the tax 56862
commissioner, on forms prescribed by the commissioner, a fuel use 56863
tax return and make payment of the full amount of the tax due for 56864
the operation of each commercial car and commercial tractor for 56865
the preceding three calendar months. ~~If the commercial cars or~~ 56866
~~commercial tractors are farm trucks and the amount of motor fuel~~ 56867
~~used to operate the trucks during the preceding twelve calendar~~ 56868
~~months was less than fifteen thousand gallons, the fuel use tax~~ 56869
~~return shall be filed and the full amount of tax due paid on or~~ 56870
~~before the last day of each July for the preceding twelve calendar~~ 56871
~~months. If the commercial cars or commercial tractors are farm~~ 56872
~~trucks and the amount of motor fuel used to operate the trucks~~ 56873
~~during the preceding twelve calendar months was fifteen thousand~~ 56874
~~gallons or more, the fuel use tax return shall be filed and the~~ 56875
~~full amount of the tax due paid either on or before the last day~~ 56876
~~of each July for the preceding twelve calendar months, or on or~~ 56877
~~before the last day of each January, April, July, and October for~~ 56878
~~the preceding three calendar months, at the option of the person~~ 56879
~~liable for payment of the tax. If the commercial cars or~~ 56880
~~commercial tractors are not farm trucks, and if, in the estimation~~ 56881
~~of the commissioner, the amount of the tax due does not warrant~~ 56882
~~quarterly filing, the commissioner may authorize the filing of the~~ 56883
~~fuel use tax return and payment of the full amount due on or~~ 56884
~~before the last day of each July for the preceding twelve months.~~ 56885

The commissioner shall immediately forward to the treasurer 56886
of state all money received from the tax levied by section 5728.06 56887
of the Revised Code. 56888

The treasurer of state shall place to the credit of the tax 56889
refund fund created by section 5703.052 of the Revised Code, out 56890
of receipts from the taxes levied by section 5728.06 of the 56891
Revised Code, amounts equal to the refund certified by the tax 56892
commissioner pursuant to section 5728.061 of the Revised Code. 56893
Receipts from the tax shall be used by the commissioner to defray 56894
expenses incurred by the department of taxation in administering 56895
sections 5728.01 to 5728.14 of the Revised Code. 56896

All moneys received in the state treasury from taxes levied 56897
by section 5728.06 of the Revised Code and fees assessed under 56898
section 5728.03 of the Revised Code that are not required to be 56899
placed to the credit of the tax refund fund as provided by this 56900
section shall, during each calendar year, be credited to the 56901
highway improvement bond retirement fund created by section 56902
5528.12 of the Revised Code until the commissioners of the sinking 56903
fund certify to the treasurer of state, as required by section 56904
5528.17 of the Revised Code, that there are sufficient moneys to 56905
the credit of the highway improvement bond retirement fund to meet 56906
in full all payments of interest, principal, and charges for the 56907
retirement of bonds and other obligations issued pursuant to 56908
Section 2g of Article VIII, Ohio Constitution, and sections 56909
5528.10 and 5528.11 of the Revised Code due and payable during the 56910
current calendar year and during the following calendar year. From 56911
the date of the receipt of the certification required by section 56912
5528.17 of the Revised Code by the treasurer of state until the 56913
thirty-first day of December of the calendar year in which the 56914
certification is made, all moneys received in the state treasury 56915
from taxes levied under section 5728.06 of the Revised Code and 56916
fees assessed under section 5728.03 of the Revised Code that are 56917

not required to be placed to the credit of the tax refund fund as 56918
provided by this section shall be credited to the highway 56919
obligations bond retirement fund created by section 5528.32 of the 56920
Revised Code until the commissioners of the sinking fund certify 56921
to the treasurer of state, as required by section 5528.38 of the 56922
Revised Code, that there are sufficient moneys to the credit of 56923
the highway obligations bond retirement fund to meet in full all 56924
payments of interest, principal, and charges for the retirement of 56925
bonds and other obligations issued pursuant to Section 2i of 56926
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 56927
of the Revised Code due and payable during the current calendar 56928
year and during the following calendar year. From the date of the 56929
receipt of the certification required by section 5528.38 of the 56930
Revised Code by the treasurer of state until the thirty-first day 56931
of December of the calendar year in which the certification is 56932
made, all moneys received in the state treasury from taxes levied 56933
under section 5728.06 of the Revised Code and fees assessed under 56934
section 5728.03 of the Revised Code that are not required to be 56935
placed to the credit of the tax refund fund as provided by this 56936
section shall be credited to the highway operating fund created by 56937
section 5735.291 of the Revised Code, except as provided by the 56938
following paragraph of this section. 56939

From the date of the receipt by the treasurer of state of 56940
certifications from the commissioners of the sinking fund, as 56941
required by sections 5528.18 and 5528.39 of the Revised Code, 56942
certifying that the moneys to the credit of the highway 56943
improvement bond retirement fund are sufficient to meet in full 56944
all payments of interest, principal, and charges for the 56945
retirement of all bonds and other obligations that may be issued 56946
pursuant to Section 2g of Article VIII, Ohio Constitution, and 56947
sections 5528.10 and 5528.11 of the Revised Code, and to the 56948
credit of the highway obligations bond retirement fund are 56949

sufficient to meet in full all payments of interest, principal,
and charges for the retirement of all obligations issued pursuant
to Section 2i of Article VIII, Ohio Constitution, and sections
5528.30 and 5528.31 of the Revised Code, all moneys received in
the state treasury from the taxes levied under section 5728.06 and
fees assessed under section 5728.03 of the Revised Code that are
not required to be placed to the credit of the tax refund fund as
provided by this section, shall be deposited to the credit of the
highway operating fund.

~~As used in this section, "farm truck" means any commercial
car or commercial tractor that is registered as a farm truck under
Chapter 4503. of the Revised Code.~~

Sec. 5729.08. (A) As used in this section, "tax otherwise
due" means the tax imposed on a foreign insurance company under
section 5729.03 of the Revised Code reduced by the total amount of
all other nonrefundable credits, if any, that the foreign
insurance company 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 foreign
insurance company under section 5729.03 of the Revised Code. The
credit shall be claimed in the calendar year specified in the
certificate issued by the authority.

(C) If the company 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 company shall claim a refundable credit
equal to the amount of the credit shown on the certificate.

(D) If the company 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~~ 56980
~~5729.03 of the Revised Code, than for the calendar year the~~ 56981
~~company may receive a refund equal to seventy five per cent of~~ 56982
~~such excess. If shall claim a refundable credit equal to the sum~~ 56983
of the following: 56984

(1) The amount, if any, of the tax otherwise due; 56985

(2) Seventy-five per cent of the difference between the 56986
amount of the refundable credit shown on the certificate and the 56987
tax otherwise due. 56988

(E) If the company elected a nonrefundable credit, the amount 56989
of the credit shown on the certificate shall not exceed the amount 56990
of tax otherwise due. If the company elected a nonrefundable 56991
credit and the credit to which the company would otherwise be 56992
entitled under this section for any calendar year is greater than 56993
the tax otherwise due ~~under section 5729.03 of the Revised Code,~~ 56994
the excess shall be allowed as a nonrefundable credit in each of 56995
the ensuing ten calendar years, but the amount of any excess 56996
credit allowed in the ensuing calendar year shall be deducted from 56997
the balance carried forward to the next calendar year. 56998

Sec. 5731.01. As used in this chapter: 56999

(A) The "value of the gross estate" of the decedent shall 57000
include, to the extent provided in sections 5731.03 to 5731.131 of 57001
the Revised Code, the value, on the ~~due~~ date of the decedent's 57002
death or on an alternate valuation date prescribed by division (D) 57003
of this section, of all property, real or personal, tangible or 57004
intangible, wherever situated, except real property situated and 57005
tangible personal property having an actual situs outside of this 57006
state. 57007

(B) Subject to the provisions of section 5731.011 of the 57008
Revised Code that permit a valuation of qualified farm property at 57009

its value for its actual qualified use, the value of any property 57010
included in the gross estate shall be the price at which such 57011
property would change hands between a willing buyer and a willing 57012
seller, neither being under any compulsion to buy or sell and both 57013
having reasonable knowledge of relevant facts. All relevant facts 57014
and elements of value as of the valuation date shall be considered 57015
in determining such value. 57016

The rulings and regulations of the internal revenue service 57017
and decisions of the federal courts defining the principles 57018
applicable in determining fair market value for purposes of the 57019
federal estate tax imposed by Subchapter A, Chapter 11 of the 57020
Internal Revenue Code ~~of 1954, 26 U.S.C. 2001, as amended,~~ shall 57021
be applied in determining fair market value for purposes of the 57022
estate taxes imposed by this chapter, to the extent that these 57023
rulings, regulations, and decisions are not inconsistent with the 57024
express provisions of this chapter, but the actual determination 57025
of the fair market value by the internal revenue service of any 57026
asset included in the gross estate is not controlling for purposes 57027
of the estate taxes imposed by this chapter, unless the person 57028
filing the estate tax return and the tax commissioner have agreed 57029
in writing to be bound by the federal determination, as provided 57030
in section 5731.26 of the Revised Code. 57031

(C) In the case of stock and securities of a corporation the 57032
value of which, by reason of their not being listed on an exchange 57033
and by reason of the absence of sales of them, cannot be 57034
determined with reference to bid and asked prices, or with 57035
reference to sales prices, the value of them shall be determined 57036
by taking into consideration, in addition to all other factors, 57037
the value of stock or securities of corporations engaged in the 57038
same or a similar line of business which are listed on an exchange 57039
or which are traded actively in the over-the-counter market. 57040

If a valuation of securities is undertaken by reference to 57041

market transactions and if the block of securities to be valued is 57042
so large in relation to actual sales on existing markets that it 57043
could not be liquidated in a reasonable time without depressing 57044
the market, the price at which the block could be sold, as such, 57045
outside the usual market, as through an underwriter, shall be 57046
considered in determining the value of such block of securities. 57047

(D) "Alternate valuation date" means the date for valuation 57048
of a gross estate permitted by filing an election under this 57049
division. Whether or not an alternate valuation date election is 57050
available to an estate for federal estate tax purposes or, if 57051
available, is made for the estate, the value of the gross estate 57052
may be determined, if the person required to file the estate tax 57053
return so elects, by valuing all the property included in the 57054
gross estate on the alternate date, if any, provided in section 57055
2032 (a) of the Internal Revenue Code of 1954, 26 U.S.C. 2032(a), 57056
~~as amended~~ as such section generally applies, for federal estate 57057
tax purposes, to the estates of persons dying on the decedent's 57058
date of death. 57059

No deduction under this chapter of any item shall be allowed 57060
if allowance is, in effect, given by use of the alternate 57061
valuation date. In the determination of any tax liability of any 57062
estate in which an election is filed under this division, all 57063
provisions in this chapter ~~which~~ that refer to value at the time 57064
of the decedent's death shall be construed for all purposes to 57065
mean the value of such property used in determining the value of 57066
the gross estate. For the purposes of the charitable deduction 57067
under section 5731.17 of the Revised Code, any bequest, legacy, 57068
devise, or transfer enumerated in it shall be valued as of the 57069
date of the decedent's death with adjustment for any difference in 57070
value, not due to mere lapse of time or the occurrence or 57071
nonoccurrence of a contingency, of the property as of the date six 57072
months after the decedent's death, or in case of its earlier 57073

disposition, on such date of disposition. 57074

An election under this division shall be exercised on the 57075
estate tax return by the person required to file the return. When 57076
made, an election under this division is irrevocable. An election 57077
cannot be exercised under this division if a return is filed more 57078
than one year after the time prescribed, including any extensions 57079
of time granted, pursuant to law for filing the return. 57080

(E) Unless otherwise indicated by the context, "county" means 57081
one of the following: 57082

(1) The county in which the decedent's estate is 57083
administered; 57084

(2) If no administration of the decedent's estate is being 57085
had, the county of residence of the decedent at the time of ~~his~~ 57086
death; 57087

(3) If the decedent dies a resident of another state, any 57088
county in which any property subject to tax is located. 57089

(F) "Internal Revenue Code" means the "Internal Revenue Code 57090
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended. 57091

Sec. 5731.05. (A) Except as provided in divisions (B) and (C) 57092
of this section, the value of the gross estate shall include the 57093
value of all property, to the extent of any interest in property, 57094
of which the decedent has at any time made a transfer, by trust or 57095
otherwise, in contemplation of ~~his~~ death. 57096

(B) Any transfer, except as provided in division (C) of this 57097
section, by trust or otherwise, made within a period of three 57098
years ending with the date of the decedent's death shall be deemed 57099
to have been made in contemplation of death, unless the contrary 57100
is shown. No transfer made before that three-year period shall be 57101
treated as having been made in contemplation of death. 57102

(C) This section does not apply to any of the following: 57103

(1) A bona fide sale for an adequate and full consideration 57104
in money or money's worth; 57105

(2) A transfer of property that would not be included in the 57106
decedent's gross estate if retained by ~~him~~ the decedent until 57107
death; 57108

(3) The first ten thousand dollars of the transfers that were 57109
made by the decedent to each transferee, other than the spouse of 57110
the decedent, in each calendar year, but only to the extent that 57111
those transfers qualify as present interests under section 2503(b) 57112
and (c) of the "Internal Revenue Code of 1986," 26 U.S.C. 2503, as 57113
~~amended~~. The exclusion provided by division (C)(3) of this section 57114
does not apply to any portion of a transfer that is treated as 57115
being made by the spouse of the decedent under section 2513 of the 57116
"Internal Revenue Code of 1986," 26 U.S.C. 2513, as ~~amended~~. 57117

(4) A transfer of property made to the spouse of the 57118
transferor, except as provided in section 5731.131 of the Revised 57119
Code; 57120

(5) Federal or state gift taxes paid with respect to any 57121
includible transfer. 57122

~~(D) The amendments made to this section by Amended Substitute 57123
House Bill No. 111 and Substitute Senate Bill No. 336 of the 118th 57124
general assembly that are effective on July 1, 1993, shall apply 57125
only to the estates of decedents who die on or after that date. 57126~~

Sec. 5731.131. ~~(A)~~ The value of the gross estate shall 57127
include the value of any property in which the decedent had an 57128
income interest for life as follows: 57129

~~(1)~~(A) If a marital deduction was allowed with respect to the 57130
transfer of such property to the decedent under section 2523(f) of 57131
the "Internal Revenue Code of 1986," 26 U.S.C. 2523(f), as 57132
~~amended~~, in connection with the determination of the value of the 57133

taxable estate of the decedent's predeceasing spouse; 57134

~~(2)(B)~~ If the decedent's predeceasing spouse was not a 57135
resident of this state at the time of ~~his~~ death and if a marital 57136
deduction was allowed with respect to the transfer of such 57137
property to the decedent under section 2056(b)(7) of the "Internal 57138
Revenue Code ~~of 1986, "~~ 26 U.S.C. 2056(b)(7), ~~as amended~~, in 57139
connection with the determination of the value of the taxable 57140
estate of the decedent's predeceasing spouse; 57141

~~(3)(C)~~ If the decedent's predeceasing spouse died prior to 57142
July 1, 1993, and if a marital deduction was allowed with respect 57143
to the transfer of such property to the decedent under division 57144
(A)(1) of section 5731.15 of the Revised Code as it existed prior 57145
to July 1, 1993, in connection with the determination of the value 57146
of the taxable estate of the decedent's predeceasing spouse; 57147

~~(4)(D)~~ If a qualified terminable interest property deduction 57148
was allowed with respect to the transfer of such property to the 57149
decedent under division (B) of section 5731.15 of the Revised 57150
Code, in connection with the determination of the value of the 57151
taxable estate of the decedent's predeceasing spouse. 57152

~~(B) The amendments made to this section by Amended Substitute 57153
House Bill No. 111 and substitute Senate Bill No. 336 of the 118th 57154
general assembly that are effective on July 1, 1993, shall apply 57155
only to the estates of decedents who die on or after that date. 57156~~

Sec. 5731.14. For purposes of the tax levied by section 57157
5731.02 of the Revised Code, the value of the taxable estate shall 57158
be determined by deducting from the value of the gross estate 57159
deductions provided for in sections 5731.15 to 5731.17 ~~and 5731.20~~ 57160
of the Revised Code. 57161

Sec. 5731.18. (A) In addition to the tax levied by section 57162
5731.02 of the Revised Code, a tax is hereby levied upon the 57163

transfer of the estate of every person dying on or after July 1, 57164
1968, who, at the time of his death was a resident of this state, 57165
in an amount equal to the maximum credit allowable by subtitle B, 57166
~~chapter~~ Chapter 11 of the Internal Revenue Code of ~~1954, 26 U.S.C.~~ 57167
~~2011, as amended~~, for any taxes paid to any state. 57168

(B) The tax levied on any estate under this section shall be 57169
credited with the amount of the tax levied under section 5731.02 57170
of the Revised Code and with the amount of any estate, 57171
inheritance, legacy, or succession taxes actually paid to any 57172
state or territory of the United States or to the District of 57173
Columbia on any property included in the decedent's gross estate 57174
for federal estate tax purposes. 57175

(C) The additional tax levied under this section shall be 57176
administered, collected, and paid as provided in section 5731.24 57177
of the Revised Code. 57178

Sec. 5731.181. (A) For purposes of this section, 57179
"generation-skipping transfer," "taxable distribution," and 57180
"taxable termination" have the same meaning as in Chapter 13 of 57181
subtitle B of the Internal Revenue Code of ~~1986, 100 Stat. 2718,~~ 57182
~~26 U.S.C. 2601-2624, as amended.~~ 57183

(B) A tax is hereby levied upon every generation-skipping 57184
transfer of property having a situs in this state, that occurs at 57185
the same time as, and as a result of, the death of an individual, 57186
in an amount equal to the credit allowed by Chapter 13 of subtitle 57187
B of the Internal Revenue Code of ~~1986, 100 Stat. 2718, 26 U.S.C.~~ 57188
~~2601-2624, as amended~~, for any taxes paid to any state in respect 57189
of any property included in the generation-skipping transfer. 57190

For purposes of this division, "property having a situs in 57191
this state" includes all the following: 57192

(1) Real property situated in this state; 57193

(2) Tangible personal property having an actual situs in this state;	57194 57195
(3) Intangible personal property employed in carrying on a business in this state;	57196 57197
(4) Intangible personal property owned by a trust, the trustee of which resides in or has its principal place of business in this state, or, if there is more than one trustee of the trust, the principal place of administration of which is in this state.	57198 57199 57200 57201
(C) The return with respect to the generation-skipping tax levied by division (B) of this section shall be filed in the form that the tax commissioner shall prescribe, on or before the day prescribed by law, including extensions, for filing the generation-skipping transfer tax return under Chapter 13 of subtitle B of the Internal Revenue Code of 1986, 100 Stat. 2718, 26 U.S.C. 2601-2624, as amended , for the same generation-skipping transfer. The return shall be filed by the distributee in the case of a taxable distribution and by the trustee in the case of a taxable termination.	57202 57203 57204 57205 57206 57207 57208 57209 57210 57211
(D) The generation-skipping tax levied by division (B) of this section shall be paid, without notice or demand by the tax commissioner, with the return, and shall be charged, collected, and administered in the same manner as estate taxes levied by this chapter. This chapter is generally applicable to, except to the extent it is inconsistent with the nature of, the generation-skipping tax.	57212 57213 57214 57215 57216 57217 57218
(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	57219 57220 57221 57222 57223 57224

compromise agreement is made, no interest and penalties shall 57225
accrue for the period prior to the execution of the agreement and 57226
for sixty days after its execution. 57227

Sec. 5731.22. (A) If the executor, administrator, or other 57228
person required to file a return fails to file the return required 57229
by this chapter or to pay the tax due under this chapter on or 57230
before the date prescribed therefor, determined with regard to any 57231
extension of time for filing or payment, ~~unless it is shown that~~ 57232
~~such failure is due to reasonable cause and not due to willful~~ 57233
~~neglect,~~ there shall be added to the amount of tax as finally 57234
determined a penalty ~~determined by the tax commissioner,~~ in the 57235
amount of five ten per cent of the amount of ~~that tax if the~~ 57236
~~failure is not for more than one month, or, if the failure is for~~ 57237
~~more than one month, in the amount of five per cent of the amount~~ 57238
~~of that tax plus an additional five per cent for each additional~~ 57239
~~month or fraction of a month during which the failure continues,~~ 57240
~~not exceeding twenty five per cent in the aggregate. If, due to~~ 57241
~~fraud, there is a failure to file the return or an underpayment of~~ 57242
~~tax due under this chapter, there shall be added to the amount of~~ 57243
~~tax as finally determined a penalty determined by the tax~~ 57244
~~commissioner, in an amount not to exceed ten thousand dollars~~ the 57245
tax due and unpaid. The ~~penalties~~ penalty imposed by this section 57246
shall be collected ~~at the same time and~~ in the same manner as the 57247
tax ~~itself.~~ 57248

The ~~penalties~~ penalty shall be charged against the executor, 57249
administrator, or other person having custody or control of any 57250
property the transfer of which is subject to estate tax, and such 57251
executor, administrator, or other person is personally liable for 57252
the ~~penalties.~~ Such penalties penalty. The penalty shall be 57253
divided in the same manner prescribed for the division of the tax 57254
in sections 5731.50 and 5731.51 of the Revised Code. 57255

(B) The county auditor, upon consultation with the county treasurer, shall remit a penalty imposed under this section on a person if that person applies for remission and shows that the failure to file the return or to pay the tax due under this chapter on or before the date prescribed for such filing or payment, determined with regard to any extension, was due to reasonable cause and not willful neglect. The county auditor shall notify the applicant of the remission decision by mail. If the county auditor denies the applicant's application for remission, the applicant, within sixty days after the notice of the county auditor's decision is mailed, may apply to the tax commissioner for review of the county auditor's decision. The application may be filed in person or by certified mail. If the application is filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal service shall be treated as the date of filing. The tax commissioner shall consider the application, determine whether the penalty should be remitted, and certify the determination to the applicant, the county auditor, and the county treasurer. The county auditor and county treasurer shall make any settlement, and the county treasurer shall correct the accounts required to be kept under section 5731.46 of the Revised Code, as necessitated by the tax commissioner's determination. The applicant may file an exception to the tax commissioner's determination with the probate court as provided under section 5731.30 of the Revised Code.

The tax commissioner may issue orders and instructions for the uniform implementation of this division by the county auditors and county treasurers of all counties, and such officers shall follow such orders and instructions.

Sec. 5731.23. Subject to division (A) of section 5731.25 of the Revised Code or any other statute extending the time for

payment of an estate tax, the tax levied by section 5731.02 and 57287
division (A) of section 5731.19 of the Revised Code shall, without 57288
notice or demand by the tax commissioner, be due and payable by 57289
the person liable for it, at the expiration of nine months from 57290
the date of the decedent's death, to the treasurer of the county. 57291
If any amount of tax levied by section 5731.02 or division (A) of 57292
section 5731.19 of the Revised Code is not paid on or before nine 57293
months from the date of the decedent's death, interest on such 57294
amount shall be paid for the period from such date to the date 57295
paid, computed at the ~~rate per annum prescribed by federal~~ 57296
short-term rate determined by the tax commissioner under section 57297
5703.47 of the Revised Code. Interest at the same rate shall be 57298
paid on any amount of tax determined to be due by way of 57299
deficiency from nine months from the date of the decedent's death 57300
to the date of payment thereof. Such interest shall be charged and 57301
collected in the same manner as the tax. 57302

Interest computed at the ~~rate per annum prescribed by federal~~ 57303
short-term rate determined by the tax commissioner under section 57304
5703.47 of the Revised Code shall be allowed and paid upon any 57305
overpayment of tax levied by section 5731.02 or division (A) of 57306
section 5731.19 of the Revised Code from nine months from the date 57307
of the decedent's death or the date of payment of the tax, 57308
whichever is later, to the date such overpayment is repaid. ~~Such~~ 57309
~~payment may be made upon an estimated basis whether or not a~~ 57310
~~return is filed, and shall be charged and collected in the same~~ 57311
~~manner as provided in section 5731.21 of the Revised Code.~~ 57312

At any time after nine months from the date of the decedent's 57313
death, payment of an estimated deficiency may be made and shall be 57314
credited against any deficiency of tax finally determined. 57315
Interest on any deficiency ultimately determined to be due shall 57316
be charged only upon the unpaid portion thereof. 57317

Sec. 5731.39. (A) No corporation organized or existing under 57318
the laws of this state shall transfer on its books or issue a new 57319
certificate for any share of its capital stock registered in the 57320
name of a decedent, or in trust for a decedent, or in the name of 57321
a decedent and another person or persons, without the written 57322
consent of the tax commissioner. 57323

(B) No safe deposit company, trust company, financial 57324
institution as defined in division (A) of section 5725.01 of the 57325
Revised Code or other corporation or person, having in possession, 57326
control, or custody a deposit standing in the name of a decedent, 57327
or in trust for a decedent, or in the name of a decedent and 57328
another person or persons, shall deliver or transfer an amount in 57329
excess of three-fourths of the total value of such deposit, 57330
including accrued interest and dividends, as of the date of 57331
decedent's death, without the written consent of the tax 57332
commissioner. The written consent of the tax commissioner need not 57333
be obtained prior to the delivery or transfer of amounts having a 57334
value of three-fourths or less of said total value. 57335

(C) No life insurance company shall pay the proceeds of an 57336
annuity or matured endowment contract, or of a life insurance 57337
contract payable to the estate of a decedent, or of any other 57338
insurance contract taxable under Chapter 5731. of the Revised 57339
Code, without the written consent of the tax commissioner. Any 57340
life insurance company may pay the proceeds of any insurance 57341
contract not specified in this division (C) without the written 57342
consent of the tax commissioner. 57343

(D) No trust company or other corporation or person shall pay 57344
the proceeds of any death benefit, retirement, pension or profit 57345
sharing plan in excess of two thousand dollars, without the 57346
written consent of the tax commissioner. Such trust company or 57347
other corporation or person, however, may pay the proceeds of any 57348
death benefit, retirement, pension, or profit-sharing plan which 57349

consists of insurance on the life of the decedent payable to a beneficiary other than the estate of the insured without the written consent of the tax commissioner.

(E) 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 securities, assets, or other property (including the shares of the capital stock of, or other interest in, such safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation), 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, and the transfer of which is taxable under Chapter 5731. of the Revised Code, shall deliver or transfer any such securities, assets, or other property which have a value as of the date of decedent's death in excess of three-fourths of the total value thereof, 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 any such securities, assets, or other property having a value of three-fourths or less of said total value.

(F) No safe deposit company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person having possession or control of a safe deposit box or similar receptacle standing in the name of a decedent or in the name of the decedent and another person or persons, or to which the decedent had a right of access, except when such safe deposit box or other receptacle stands in the name of a corporation or partnership, or in the name of the decedent as guardian or executor, shall deliver any of the contents thereof unless the safe deposit box or similar receptacle has been opened and inventoried in the presence of the tax commissioner or the

commissioner's agent, and a written consent to transfer issued; 57382
provided, however, that a safe deposit company, financial 57383
institution, or other corporation or person having possession or 57384
control of a safe deposit box may deliver wills, deeds to burial 57385
lots, and insurance policies to a representative of the decedent, 57386
but that a representative of the safe deposit company, financial 57387
institution, or other corporation or person must supervise the 57388
opening of the box and make a written record of the wills, deeds, 57389
and policies removed. Such written record shall be included in the 57390
tax commissioner's inventory records. 57391

(G) Notwithstanding any provision of this section: 57392

(1) The tax commissioner may authorize any delivery or 57393
transfer or waive any of the foregoing requirements under such 57394
terms and conditions as the commissioner may prescribe; 57395

(2) An adult care facility, as defined in section 3722.01 of 57396
the Revised Code, or a home, as defined in section 3721.10 of the 57397
Revised Code, may transfer or use the money in a personal needs 57398
allowance account in accordance with section ~~5111.112~~ 5111.113 of 57399
the Revised Code without the written consent of the tax 57400
commissioner, and without the account having been opened and 57401
inventoried in the presence of the commissioner or the 57402
commissioner's agent. 57403

Failure to comply with this section shall render such safe 57404
deposit company, trust company, life insurance company, financial 57405
institution as defined in division (A) of section 5725.01 of the 57406
Revised Code, or other corporation or person liable for the amount 57407
of the taxes and interest due under the provisions of Chapter 57408
5731. of the Revised Code on the transfer of such stock, deposit, 57409
proceeds of an annuity or matured endowment contract or of a life 57410
insurance contract payable to the estate of a decedent, or other 57411
insurance contract taxable under Chapter 5731. of the Revised 57412

Code, proceeds of any death benefit, retirement, pension, or 57413
profit sharing plan in excess of two thousand dollars, or 57414
securities, assets, or other property of any resident decedent, 57415
and in addition thereto, to a penalty of not less than five 57416
hundred or more than five thousand dollars. 57417

Sec. 5731.41. To enforce section 5731.39 of the Revised Code, 57418
the tax commissioner may appoint agents in the unclassified civil 57419
service who shall perform such duties as are prescribed by the 57420
commissioner. Such agents shall, as compensation, receive annually 57421
eight cents per capita for each full one thousand of the first 57422
twenty thousand of the population of the county and two cents per 57423
capita for each full one thousand over twenty thousand of the 57424
population of the county, as shown by the last federal census, 57425
which shall be paid in equal monthly installments from the 57426
undivided inheritance or estate tax in the county treasury on the 57427
warrant of the county auditor or from the county real estate 57428
assessment fund, any other provision of law to the contrary 57429
notwithstanding. The amount paid to any agent in the unclassified 57430
service for duties performed in estate tax matters, as directed by 57431
the commissioner, shall not exceed three thousand nor be less than 57432
twelve hundred dollars in any calendar year. 57433

Sec. 5733.01. (A) The tax provided by this chapter for 57434
domestic corporations shall be the amount charged against each 57435
corporation organized for profit under the laws of this state and 57436
each nonprofit corporation organized pursuant to Chapter 1729. of 57437
the Revised Code, except as provided in sections 5733.09 and 57438
5733.10 of the Revised Code, for the privilege of exercising its 57439
franchise during the calendar year in which that amount is 57440
payable, and the tax provided by this chapter for foreign 57441
corporations shall be the amount charged against each corporation 57442
organized for profit and each nonprofit corporation organized or 57443

operating in the same or similar manner as nonprofit corporations 57444
organized under Chapter 1729. of the Revised Code, under the laws 57445
of any state or country other than this state, except as provided 57446
in sections 5733.09 and 5733.10 of the Revised Code, for the 57447
privilege of doing business in this state, owning or using a part 57448
or all of its capital or property in this state, holding a 57449
certificate of compliance with the laws of this state authorizing 57450
it to do business in this state, or otherwise having nexus in or 57451
with this state under the Constitution of the United States, 57452
during the calendar year in which that amount is payable. 57453

(B) A corporation is subject to the tax imposed by section 57454
5733.06 of the Revised Code for each calendar year that it is so 57455
organized, doing business, owning or using a part or all of its 57456
capital or property, holding a certificate of compliance, or 57457
otherwise having nexus in or with this state under the 57458
Constitution of the United States, on the first day of January of 57459
that calendar year. 57460

(C) Any corporation subject to this chapter that is not 57461
subject to the federal income tax shall file its returns and 57462
compute its tax liability as required by this chapter in the same 57463
manner as if that corporation were subject to the federal income 57464
tax. 57465

(D) For purposes of this chapter, a federally chartered 57466
financial institution shall be deemed to be organized under the 57467
laws of the state within which its principal office is located. 57468

(E) Any For purposes of this chapter, any person, as defined 57469
in section 5701.01 of the Revised Code, shall be treated as a 57470
corporation ~~for purposes of this chapter~~ if the person is 57471
classified for federal income tax purposes as an association 57472
taxable as a corporation, and an equity interest in the person 57473
shall be treated as capital stock of the person. 57474

(F) For the purposes of this chapter, "disregarded entity" 57475
has the same meaning as in division (D) of section 5745.01 of the 57476
Revised Code. 57477

(1) A person's interest in a disregarded entity, whether held 57478
directly or indirectly, shall be treated as the person's ownership 57479
of the assets and liabilities of the disregarded entity, and the 57480
income, including gain or loss, shall be included in the person's 57481
net income under this chapter. 57482

(2) Any sale, exchange, or other disposition of the person's 57483
interest in the disregarded entity, whether held directly or 57484
indirectly, shall be treated as a sale, exchange, or other 57485
disposition of the person's share of the disregarded entity's 57486
underlying assets or liabilities, and the gain or loss from such 57487
sale, exchange, or disposition shall be included in the person's 57488
net income under this chapter. 57489

(3) The disregarded entity's payroll, property, and sales 57490
factors shall be included in the person's factors. 57491

(G) The tax a corporation is required to pay under this 57492
chapter shall be as follows: 57493

(1)(a) For financial institutions, the greater of the minimum 57494
payment required under division (E) of section 5733.06 of the 57495
Revised Code or the difference between all taxes charged the 57496
financial institution under this chapter, without regard to 57497
division (G)(2) of this section, less any credits allowable 57498
against such tax. 57499

(b) A corporation satisfying the description in division 57500
(E)(5), (6), (7), (8), or (9) of section 5751.01 of the Revised 57501
Code that is not a financial institution, insurance company, or 57502
dealer in intangibles is subject to the taxes imposed under this 57503
chapter as a corporation and not subject to tax as a financial 57504
institution, and shall pay the greater of the minimum payment 57505

required under division (E) of section 5733.06 of the Revised Code 57506
or the difference between all the taxes charged under this 57507
chapter, without regard to division (G)(2) of this section, less 57508
any credits allowable against such tax. 57509

(2) For all corporations other than those persons described 57510
in division (G)(1)(a) or (b) of this section, the amount under 57511
division (G)(2)(a) of this section applicable to the tax year 57512
specified less the amount under division (G)(2)(b) of this 57513
section: 57514

(a)(i) For tax year 2005, the greater of the minimum payment 57515
required under division (E) of section 5733.06 of the Revised Code 57516
or the difference between all taxes charged the corporation under 57517
this chapter less any credits allowable against such tax except 57518
the qualifying pass-through entity tax credit described in 57519
division (A)(1) and the refundable credits described in divisions 57520
(A)(29), (30), and (31) of section 5733.98 of the Revised Code; 57521

(ii) For tax year 2006, the greater of the minimum payment 57522
required under division (E) of section 5733.06 of the Revised Code 57523
or four-fifths of the difference between all taxes charged the 57524
corporation under this chapter less any credits allowable against 57525
such tax except the qualifying pass-through entity tax credit 57526
described in division (A)(1) and the refundable credits described 57527
in divisions (A)(29), (30), and (31) of section 5733.98 of the 57528
Revised Code; 57529

(iii) For tax year 2007, the greater of the minimum payment 57530
required under division (E) of section 5733.06 of the Revised Code 57531
or three-fifths of the difference between all taxes charged the 57532
corporation under this chapter less any credits allowable against 57533
such tax except the qualifying pass-through entity tax credit 57534
described in division (A)(1) and the refundable credits described 57535
in divisions (A)(29), (30), and (31) of section 5733.98 of the 57536

<u>Revised Code;</u>	57537
<u>(iv) For tax year 2008, the greater of the minimum payment</u>	57538
<u>required under division (E) of section 5733.06 of the Revised Code</u>	57539
<u>or two-fifths of the difference between all taxes charged the</u>	57540
<u>corporation under this chapter less any credits allowable against</u>	57541
<u>such tax except the qualifying pass-through entity tax credit</u>	57542
<u>described in division (A)(1) and the refundable credits described</u>	57543
<u>in divisions (A)(29), (30), and (31) of section 5733.98 of the</u>	57544
<u>Revised Code except the qualifying pass-through entity tax credit</u>	57545
<u>under division (A)(1) and the refundable credits under divisions</u>	57546
<u>(A)(29), (30), and (31) of section 5733.98 of the Revised Code;</u>	57547
<u>(v) For tax year 2009, the greater of the minimum payment</u>	57548
<u>required under division (E) of section 5733.06 of the Revised Code</u>	57549
<u>or one-fifth of the difference between all taxes charged the</u>	57550
<u>corporation under this chapter less any credits allowable against</u>	57551
<u>such tax except the qualifying pass-through entity tax credit</u>	57552
<u>described in division (A)(1) and the refundable credits described</u>	57553
<u>in divisions (A)(29), (30), and (31) of section 5733.98 of the</u>	57554
<u>Revised Code except the qualifying pass-through entity tax credit</u>	57555
<u>under division (A)(1) and the refundable credits under divisions</u>	57556
<u>(A)(29), (30), and (31) of section 5733.98 of the Revised Code;</u>	57557
<u>(vi) For tax year 2010 and each tax year thereafter, no tax.</u>	57558
<u>(b) A corporation shall subtract from the amount calculated</u>	57559
<u>under division (G)(2)(a)(i), (ii), (iii), (iv), or (v) of this</u>	57560
<u>section any qualifying pass-through entity tax credit described in</u>	57561
<u>division (A)(1) or any refundable credit described in division</u>	57562
<u>(A)(29), (30), or (31) of section 5733.98 of the Revised Code to</u>	57563
<u>which the corporation is entitled. Any unused qualifying</u>	57564
<u>pass-through entity tax credit is not refundable.</u>	57565
Sec. 5733.065. (A) As used in this section, "litter stream	57566

products" means: 57567

(1) Intoxicating liquor, beer, wine, mixed beverages, or 57568
spirituous liquor as defined in section 4301.01 of the Revised 57569
Code; 57570

(2) Soft drinks as defined in section 913.22 of the Revised 57571
Code; 57572

(3) Glass, metal, plastic, or fiber containers with a 57573
capacity of less than two gallons sold for the purpose of being 57574
incorporated into or becoming a part of a product enumerated in 57575
divisions (A)(1) and (2) of this section; 57576

(4) Container crowns and closures sold for the purpose of 57577
being incorporated into or becoming a part of a product enumerated 57578
in divisions (A)(1) and (2) of this section; 57579

(5) Packaging materials transferred or intended for transfer 57580
of use or possession in conjunction with retail sales of products 57581
enumerated in divisions (A)(1) and (2) of this section; 57582

(6) Packaging materials in the finished form in which they 57583
are to be used, including sacks, bags, cups, lids, straws, plates, 57584
wrappings, boxes, or containers of any type used in the packaging 57585
or serving of food or beverages, when the food or beverages are 57586
prepared for human consumption by a restaurant or take-out food 57587
outlet at the premises where sold at retail and are delivered to a 57588
purchaser for consumption off the premises where the food or 57589
beverages are sold; 57590

(7) Cigarettes, cigars, tobacco, matches, candy, and gum. 57591

(B) For the purpose of providing additional funding for ~~the~~ 57592
~~division of recycling and litter prevention under Chapter 1502. of~~ 57593
~~the Revised Code~~, there is hereby levied an additional tax on 57594
corporations for the privilege of manufacturing or selling litter 57595
stream products in this state. The tax imposed by this section is 57596

in addition to the tax charged under section 5733.06 of the 57597
Revised Code, computed at the rate prescribed by section 5733.066 57598
of the Revised Code. ~~This section does not apply for tax year 1981~~ 57599
~~to a corporation whose taxable year for tax year 1981 ended on or~~ 57600
~~before June 30, 1980.~~ 57601

(C) The tax shall be imposed upon each corporation subject to 57602
the tax imposed by section 5733.06 of the Revised Code that 57603
manufactures or sells litter stream products in this state. The 57604
tax for each year shall be in an amount equal to the greater of 57605
either: 57606

(1) Twenty-two hundredths of one per cent upon the value of 57607
that portion of the taxpayer's issued and outstanding shares of 57608
stock as determined under division (B) of section 5733.05 of the 57609
Revised Code that is subject to the rate contained in division (B) 57610
of section 5733.06 of the Revised Code; 57611

(2) Fourteen one-hundredths of a mill times the value of the 57612
taxpayer's issued and outstanding shares of stock as determined 57613
under division (C) of section 5733.05 of the Revised Code. 57614

The additional tax charged any taxpayer or group of combined 57615
taxpayers pursuant to this section for any tax year shall not 57616
exceed five thousand dollars. 57617

(D)(1) In the case of a corporation engaged in the business 57618
of manufacturing litter stream products, no tax shall be due under 57619
this section unless the sale of litter stream products in this 57620
state during the taxable year exceeds five per cent of the total 57621
sales in this state of the corporation during that period or 57622
unless the total sales in this state of litter stream products by 57623
the corporation during the taxable year exceed ten million 57624
dollars. 57625

(2) In the case of a corporation engaged in the business of 57626
selling litter stream products in the form in which the item is or 57627

is to be received, no tax shall be due under this section unless 57628
the corporation's sales of litter stream products in this state 57629
during the taxable year constitute more than five per cent of its 57630
total sales in this state during that period. 57631

(3) In the case of a corporation transferring possession of 57632
litter stream products included in division (A)(6) of this 57633
section, in which food or beverages prepared for human consumption 57634
are placed, when the food or beverages are prepared for retail 57635
sale at the premises where sold and are delivered to a purchaser 57636
for consumption off the premises where the food or beverages are 57637
sold, no tax shall be due under this section unless such sales for 57638
off-premises consumption during the taxable year exceed five per 57639
cent of the corporation's total annual sales during the taxable 57640
year. 57641

(E)(1) The tax imposed by this section is due in the 57642
proportions and on the dates on which the tax imposed by section 57643
5733.06 of the Revised Code may be paid without penalty. 57644

(2) Payment of the tax and any reports or returns required to 57645
enable the tax commissioner to determine the correct amount of the 57646
tax shall be submitted with and are due at the same time as 57647
payments and reports required to be submitted under this chapter. 57648

(3) If the tax is not paid in full on or before the date 57649
required by division (E)(1) of this section, the unpaid portion of 57650
the tax due and unpaid shall be subject to all provisions of this 57651
chapter for the collection of unpaid, delinquent taxes imposed by 57652
section 5733.06 of the Revised Code, except that all such taxes, 57653
interest, and penalties, when collected, shall be treated as 57654
proceeds arising from the tax imposed by this section and shall be 57655
deposited in the general revenue fund. 57656

The tax levied on corporations under this section does not 57657
prohibit or otherwise limit the authority of municipal 57658

corporations to impose an income tax on the income of such 57659
corporations. 57660

Sec. 5733.066. There shall be added to the rates contained in 57661
section 5733.06 of the Revised Code the following: 57662

(A) To the rate in division (A) of that section upon that 57663
portion of the value of the taxpayer's issued and outstanding 57664
shares of stock as determined under division (B) of section 57665
5733.05 of the Revised Code that is subject to such rate, an 57666
additional eleven-hundredths per cent upon that value to provide 57667
funding for ~~the division of~~ recycling and litter prevention ~~under~~ 57668
~~Chapter 1502. of the Revised Code;~~ 57669

(B) To the rate in division (B) of that section upon that 57670
portion of the value so determined that is subject to that rate, 57671
an additional twenty-two-hundredths per cent upon that value to 57672
provide funding for ~~the division~~ recycling and litter prevention 57673
~~under Chapter 1502. of the Revised Code;~~ 57674

(C) To the rate in division (C) of that section times that 57675
portion of the value of the taxpayer's issued and outstanding 57676
shares of stock as determined under division (C) of section 57677
5733.05 of the Revised Code, an additional fourteen one-hundredths 57678
mills times that value to provide funding for ~~the division of~~ 57679
recycling and litter prevention ~~under Chapter 1502. of the Revised~~ 57680
~~Code.~~ 57681

The additional tax charged any taxpayer or group of combined 57682
taxpayers pursuant to this section for any tax year shall not 57683
exceed five thousand dollars. 57684

This section does not apply to any family farm corporation as 57685
defined in section 4123.01 of the Revised Code. 57686

The tax levied on corporations under this section does not 57687
prohibit or otherwise limit the authority of municipal 57688

corporations to impose an income tax on the income of such 57689
corporations. 57690

Sec. 5733.33. (A) As used in this section: 57691

(1) "Manufacturing machinery and equipment" means engines and 57692
machinery, and tools and implements, of every kind used, or 57693
designed to be used, in refining and manufacturing. "Manufacturing 57694
machinery and equipment" does not include property acquired after 57695
December 31, 1999, that is used: 57696

(a) For the transmission and distribution of electricity; 57697

(b) For the generation of electricity, if fifty per cent or 57698
more of the electricity that the property generates is consumed, 57699
during the one-hundred-twenty-month period commencing with the 57700
date the property is placed in service, by persons that are not 57701
related members to the person who generates the electricity. 57702

(2) "New manufacturing machinery and equipment" means 57703
manufacturing machinery and equipment, the original use in this 57704
state of which commences with the taxpayer or with a partnership 57705
of which the taxpayer is a partner. "New manufacturing machinery 57706
and equipment" does not include property acquired after December 57707
31, 1999, that is used: 57708

(a) For the transmission and distribution of electricity; 57709

(b) For the generation of electricity, if fifty per cent or 57710
more of the electricity that the property generates is consumed, 57711
during the one-hundred-twenty-month period commencing with the 57712
date the property is placed in service, by persons that are not 57713
related members to the person who generates the electricity. 57714

(3)(a) "Purchase" has the same meaning as in section 57715
179(d)(2) of the Internal Revenue Code. 57716

(b) For purposes of this section, any property that is not 57717

manufactured or assembled primarily by the taxpayer is considered 57718
purchased at the time the agreement to acquire the property 57719
becomes binding. Any property that is manufactured or assembled 57720
primarily by the taxpayer is considered purchased at the time the 57721
taxpayer places the property in service in the county for which 57722
the taxpayer will calculate the county excess amount. 57723

(c) Notwithstanding section 179(d) of the Internal Revenue 57724
Code, a taxpayer's direct or indirect acquisition of new 57725
manufacturing machinery and equipment is not purchased on or after 57726
July 1, 1995, if the taxpayer, or a person whose relationship to 57727
the taxpayer is described in subparagraphs (A), (B), or (C) of 57728
section 179(d)(2) of the Internal Revenue Code, had directly or 57729
indirectly entered into a binding agreement to acquire the 57730
property at any time prior to July 1, 1995. 57731

(4) "Qualifying period" means the period that begins July 1, 57732
1995, and ends ~~December 31, 2015~~ June 30, 2005. 57733

(5) "County average new manufacturing machinery and equipment 57734
investment" means either of the following: 57735

(a) The average annual cost of new manufacturing machinery 57736
and equipment purchased for use in the county during baseline 57737
years, in the case of a taxpayer that was in existence for more 57738
than one year during baseline years. 57739

(b) Zero, in the case of a taxpayer that was not in existence 57740
for more than one year during baseline years. 57741

(6) "Partnership" includes a limited liability company formed 57742
under Chapter 1705. of the Revised Code or under the laws of any 57743
other state, provided that the company is not classified for 57744
federal income tax purposes as an association taxable as a 57745
corporation. 57746

(7) "Partner" includes a member of a limited liability 57747

company formed under Chapter 1705. of the Revised Code or under 57748
the laws of any other state, provided that the company is not 57749
classified for federal income tax purposes as an association 57750
taxable as a corporation. 57751

(8) "Distressed area" means either a municipal corporation 57752
that has a population of at least fifty thousand or a county that 57753
meets two of the following criteria of economic distress, or a 57754
municipal corporation the majority of the population of which is 57755
situated in such a county: 57756

(a) Its average rate of unemployment, during the most recent 57757
five-year period for which data are available, is equal to at 57758
least one hundred twenty-five per cent of the average rate of 57759
unemployment for the United States for the same period; 57760

(b) It has a per capita income equal to or below eighty per 57761
cent of the median county per capita income of the United States 57762
as determined by the most recently available figures from the 57763
United States census bureau; 57764

(c)(i) In the case of a municipal corporation, at least 57765
twenty per cent of the residents have a total income for the most 57766
recent census year that is below the official poverty line; 57767

(ii) In the case of a county, in intercensal years, the 57768
county has a ratio of transfer payment income to total county 57769
income equal to or greater than twenty-five per cent. 57770

(9) "Eligible area" means a distressed area, a labor surplus 57771
area, an inner city area, or a situational distress area. 57772

(10) "Inner city area" means, in a municipal corporation that 57773
has a population of at least one hundred thousand and does not 57774
meet the criteria of a labor surplus area or a distressed area, 57775
targeted investment areas established by the municipal corporation 57776
within its boundaries that are comprised of the most recent census 57777

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. 57778
57779
57780

(11) "Labor surplus area" means an area designated as a labor 57781
surplus area by the United States department of labor. 57782

(12) "Official poverty line" has the same meaning as in 57783
division (A) of section 3923.51 of the Revised Code. 57784

(13) "Situational distress area" means a county or a 57785
municipal corporation that has experienced or is experiencing a 57786
closing or downsizing of a major employer, that will adversely 57787
affect the county's or municipal corporation's economy. In order 57788
to be designated as a situational distress area for a period not 57789
to exceed thirty-six months, the county or municipal corporation 57790
may petition the director of development. The petition shall 57791
include written documentation that demonstrates all of the 57792
following adverse effects on the local economy: 57793

(a) The number of jobs lost by the closing or downsizing; 57794

(b) The impact that the job loss has on the county's or 57795
municipal corporation's unemployment rate as measured by the state 57796
director of job and family services; 57797

(c) The annual payroll associated with the job loss; 57798

(d) The amount of state and local taxes associated with the 57799
job loss; 57800

(e) The impact that the closing or downsizing has on the 57801
suppliers located in the county or municipal corporation. 57802

(14) "Cost" has the same meaning and limitation as in section 57803
179(d)(3) of the Internal Revenue Code. 57804

(15) "Baseline years" means: 57805

(a) Calendar years 1992, 1993, and 1994, with regard to a 57806

credit claimed for the purchase during calendar year 1995, 1996,	57807
1997, or 1998 of new manufacturing machinery and equipment;	57808
(b) Calendar years 1993, 1994, and 1995, with regard to a	57809
credit claimed for the purchase during calendar year 1999 of new	57810
manufacturing machinery and equipment;	57811
(c) Calendar years 1994, 1995, and 1996, with regard to a	57812
credit claimed for the purchase during calendar year 2000 of new	57813
manufacturing machinery and equipment;	57814
(d) Calendar years 1995, 1996, and 1997, with regard to a	57815
credit claimed for the purchase during calendar year 2001 of new	57816
manufacturing machinery and equipment;	57817
(e) Calendar years 1996, 1997, and 1998, with regard to a	57818
credit claimed for the purchase during calendar year 2002 of new	57819
manufacturing machinery and equipment;	57820
(f) Calendar years 1997, 1998, and 1999, with regard to a	57821
credit claimed for the purchase during calendar year 2003 of new	57822
manufacturing machinery and equipment;	57823
(g) Calendar years 1998, 1999, and 2000, with regard to a	57824
credit claimed for the purchase during calendar year 2004 of new	57825
manufacturing machinery and equipment;	57826
(h) Calendar years 1999, 2000, and 2001, with regard to a	57827
credit claimed for the purchase during calendar year 2005 <u>on or</u>	57828
<u>after January 1, 2005, and on or before June 30, 2005,</u> of new	57829
manufacturing machinery and equipment;	57830
(i) Calendar years 2000, 2001, and 2002, with regard to a	57831
credit claimed for the purchase during calendar year 2006 of new	57832
manufacturing machinery and equipment;	57833
(j) Calendar years 2001, 2002, and 2003, with regard to a	57834
credit claimed for the purchase during calendar year 2007 of new	57835
manufacturing machinery and equipment;	57836

(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;	57837
	57838
	57839
(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;	57840
	57841
	57842
(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;	57843
	57844
	57845
(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;	57846
	57847
	57848
(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;	57849
	57850
	57851
(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;	57852
	57853
	57854
(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;	57855
	57856
	57857
(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.	57858
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	57860
(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	57861
	57862
(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	57863
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	57865
	57866

period, provided that the new manufacturing machinery and 57867
equipment are installed in this state no later than ~~December 31,~~ 57868
~~2016~~ June 30, 2006. 57869

(2)(a) Except as otherwise provided in division (B)(2)(b) of 57870
this section, a credit may be claimed under this section in excess 57871
of one million dollars only if the cost of all manufacturing 57872
machinery and equipment owned in this state by the taxpayer 57873
claiming the credit on the last day of the calendar year exceeds 57874
the cost of all manufacturing machinery and equipment owned in 57875
this state by the taxpayer on the first day of that calendar year. 57876

As used in division (B)(2)(a) of this section, "calendar 57877
year" means the calendar year in which the machinery and equipment 57878
for which the credit is claimed was purchased. 57879

(b) Division (B)(2)(a) of this section does not apply if the 57880
taxpayer claiming the credit applies for and is issued a waiver of 57881
the requirement of that division. A taxpayer may apply to the 57882
director of development for such a waiver in the manner prescribed 57883
by the director, and the director may issue such a waiver if the 57884
director determines that granting the credit is necessary to 57885
increase or retain employees in this state, and that the credit 57886
has not caused relocation of manufacturing machinery and equipment 57887
among counties within this state for the primary purpose of 57888
qualifying for the credit. 57889

(C)(1) Except as otherwise provided in division (C)(2) and 57890
division (I) of this section, the credit amount is equal to seven 57891
and one-half per cent of the excess of the cost of the new 57892
manufacturing machinery and equipment purchased during the 57893
calendar year for use in a county over the county average new 57894
manufacturing machinery and equipment investment for that county. 57895

(2) Subject to division (I) of this section, as used in 57896
division (C)(2) of this section "county excess" means the 57897

taxpayer's excess cost for a county as computed under division 57898
(C)(1) of this section. 57899

Subject to division (I) of this section, a taxpayer with a 57900
county excess, whose purchases included purchases for use in any 57901
eligible area in the county, the credit amount is equal to 57902
thirteen and one-half per cent of the cost of the new 57903
manufacturing machinery and equipment purchased during the 57904
calendar year for use in the eligible areas in the county, 57905
provided that the cost subject to the thirteen and one-half per 57906
cent rate shall not exceed the county excess. If the county excess 57907
is greater than the cost of the new manufacturing machinery and 57908
equipment purchased during the calendar year for use in eligible 57909
areas in the county, the credit amount also shall include an 57910
amount equal to seven and one-half per cent of the amount of the 57911
difference. 57912

(3) If a taxpayer is allowed a credit for purchases of new 57913
manufacturing machinery and equipment in more than one county or 57914
eligible area, it shall aggregate the amount of those credits each 57915
year. 57916

(4) The taxpayer shall claim one-seventh of the credit amount 57917
for the tax year immediately following the calendar year in which 57918
the new manufacturing machinery and equipment is purchased for use 57919
in the county by the taxpayer or partnership. One-seventh of the 57920
taxpayer credit amount is allowed for each of the six ensuing tax 57921
years. Except for carried-forward amounts, the taxpayer is not 57922
allowed any credit amount remaining if the new manufacturing 57923
machinery and equipment is sold by the taxpayer or partnership or 57924
is transferred by the taxpayer or partnership out of the county 57925
before the end of the seven-year period unless, at the time of the 57926
sale or transfer, the new manufacturing machinery and equipment 57927
has been fully depreciated for federal income tax purposes. 57928

(5)(a) A taxpayer that acquires manufacturing machinery and equipment as a result of a merger with the taxpayer with whom commenced the original use in this state of the manufacturing machinery and equipment, or with a taxpayer that was a partner in a partnership with whom commenced the original use in this state of the manufacturing machinery and equipment, is entitled to any remaining or carried-forward credit amounts to which the taxpayer was entitled.

(b) A taxpayer that enters into an agreement under division (C)(3) of section 5709.62 of the Revised Code and that acquires manufacturing machinery or equipment as a result of purchasing a large manufacturing facility, as defined in section 5709.61 of the Revised Code, from another taxpayer with whom commenced the original use in this state of the manufacturing machinery or equipment, and that operates the large manufacturing facility so purchased, is entitled to any remaining or carried-forward credit amounts to which the other taxpayer who sold the facility would have been entitled under this section had the other taxpayer not sold the manufacturing facility or equipment.

(c) New manufacturing machinery and equipment is not considered sold if a pass-through entity transfers to another pass-through entity substantially all of its assets as part of a plan of reorganization under which substantially all gain and loss is not recognized by the pass-through entity that is transferring the new manufacturing machinery and equipment to the transferee and under which the transferee's basis in the new manufacturing machinery and equipment is determined, in whole or in part, by reference to the basis of the pass-through entity which transferred the new manufacturing machinery and equipment to the transferee.

(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 57961
manufacturing machinery and equipment out of the county before the 57962
end of the seven-year period to which division (C)(4) of this 57963
section refers. 57964

(e) Division (C)(5)(b) of this section applies only to the 57965
extent that the taxpayer that sold the manufacturing machinery or 57966
equipment, upon request, timely provides to the tax commissioner 57967
any information that the tax commissioner considers to be 57968
necessary to ascertain any remaining or carried-forward amounts to 57969
which the taxpayer that sold the facility would have been entitled 57970
under this section had the taxpayer not sold the manufacturing 57971
machinery or equipment. Nothing in division (C)(5)(b) or (e) of 57972
this section shall be construed to allow a taxpayer to claim any 57973
credit amount with respect to the acquired manufacturing machinery 57974
or equipment that is greater than the amount that would have been 57975
available to the other taxpayer that sold the manufacturing 57976
machinery or equipment had the other taxpayer not sold the 57977
manufacturing machinery or equipment. 57978

(D) The taxpayer shall claim the credit in the order required 57979
under section 5733.98 of the Revised Code. Each year, any credit 57980
amount in excess of the tax due under section 5733.06 of the 57981
Revised Code after allowing for any other credits that precede the 57982
credit under this section in that order may be carried forward for 57983
three tax years. 57984

(E) A taxpayer purchasing new manufacturing machinery and 57985
equipment and intending to claim the credit shall file, with the 57986
department of development, a notice of intent to claim the credit 57987
on a form prescribed by the department of development. The 57988
department of development shall inform the tax commissioner of the 57989
notice of intent to claim the credit. 57990

(F) The director of development shall annually certify, by 57991

the first day of January of each year during the qualifying 57992
period, the eligible areas for the tax credit for the calendar 57993
year that includes that first day of January. The director shall 57994
send a copy of the certification to the tax commissioner. 57995

(G) New manufacturing machinery and equipment for which a 57996
taxpayer claims the credit under section 5733.31, 5733.311, 57997
5747.26, or 5747.261 of the Revised Code shall not be considered 57998
new manufacturing machinery and equipment for purposes of the 57999
credit under this section. 58000

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the 58001
Revised Code, but subject to division (H)(2) of this section, the 58002
tax commissioner may issue an assessment against a person with 58003
respect to a credit claimed under this section for new 58004
manufacturing machinery and equipment described in division 58005
(A)(1)(b) or (2)(b) of this section, if the machinery or equipment 58006
subsequently does not qualify for the credit. 58007

(2) Division (H)(1) of this section shall not apply after the 58008
twenty-fourth month following the last day of the period described 58009
in divisions (A)(1)(b) and (2)(b) of this section. 58010

(I) Notwithstanding any other provision of this section to 58011
the contrary, in the case of a qualifying controlled group, the 58012
credit available under this section to a taxpayer or taxpayers in 58013
the qualifying controlled group shall be computed as if all 58014
corporations in the group were a single corporation. The credit 58015
shall be allocated to such a taxpayer or taxpayers in the group in 58016
any amount elected for the taxable year by the group. Such 58017
election shall be revocable and amendable during the period 58018
described in division (B) of section 5733.12 of the Revised Code. 58019

This division applies to all purchases of new manufacturing 58020
machinery and equipment made on or after January 1, 2001, and to 58021
all baseline years used to compute any credit attributable to such 58022

purchases; provided, that this division may be applied solely at 58023
the election of the qualifying controlled group with respect to 58024
all purchases of new manufacturing machinery and equipment made 58025
before that date, and to all baseline years used to compute any 58026
credit attributable to such purchases. The qualifying controlled 58027
group at any time may elect to apply this division to purchases 58028
made prior to January 1, 2001, subject to the following: 58029

(1) The election is irrevocable; 58030

(2) The election need not accompany a timely filed report, 58031
but the election may accompany a subsequently filed but timely 58032
application for refund, a subsequently filed but timely amended 58033
report, or a subsequently filed but timely petition for 58034
reassessment. 58035

(J) Any credit for purchases of new manufacturing machinery 58036
and equipment made before July 1, 2005, may be claimed as provided 58037
in division (C) of this section and, each year, any amount of 58038
credit for such purchases in excess of the tax due under section 58039
5733.06 of the Revised Code after allowing for any other credits 58040
that precede the credit in the order required under section 58041
5733.98 of the Revised Code may be carried forward as provided in 58042
division (D) of this section. 58043

Sec. 5733.351. (A) As used in this section, "qualified 58044
research expenses" has the same meaning as in section 41 of the 58045
Internal Revenue Code. 58046

(B)(1) A nonrefundable credit is allowed against the tax 58047
imposed by section 5733.06 of the Revised Code for tax year 2002 58048
for a taxpayer whose taxable year for tax year 2002 ended before 58049
July 1, 2001. The credit shall equal seven per cent of the excess 58050
of qualified research expenses incurred in this state by the 58051
taxpayer between January 1, 2001, and the end of the taxable year, 58052

over the taxpayer's average annual qualified research expenses 58053
incurred in this state for the three preceding taxable years. 58054

(2) A nonrefundable credit also is allowed against the tax 58055
imposed by section 5733.06 of the Revised Code for each tax year, 58056
commencing with tax year 2004 and ending with tax year 2008. The 58057
credit shall equal seven per cent of the excess of qualified 58058
research expenses incurred in this state by the taxpayer for the 58059
taxable year over the taxpayer's average annual qualified research 58060
expenses incurred in this state for the three preceding taxable 58061
years. 58062

(3) The taxpayer shall claim the credit allowed under 58063
division (B)(1) or (2) of this section in the order required by 58064
section 5733.98 of the Revised Code. Any credit amount in excess 58065
of the tax due under section 5733.06 of the Revised Code, after 58066
allowing for any other credits that precede the credit under this 58067
section in the order required under section 5733.98 of the Revised 58068
Code, may be carried forward for seven taxable years, but the 58069
amount of the excess credit allowed in any such year shall be 58070
deducted from the balance carried forward to the next year. Any 58071
credit not fully utilized by tax year 2008 may be carried forward 58072
and applied against the tax levied by Chapter 5751. of the Revised 58073
Code to the extent allowed under section 5751.51 of the Revised 58074
Code, provided that the total number of taxable years under this 58075
section and calendar years under Chapter 5751. of the Revised Code 58076
for which the credit is carried forward shall not exceed seven. 58077

(C) In the case of a qualifying controlled group, the credit 58078
allowed under division (B)(1) or (2) of this section to taxpayers 58079
in the qualifying controlled group shall be computed as if all 58080
corporations in the qualifying controlled group were a 58081
consolidated, single taxpayer. The credit shall be allocated to 58082
such taxpayers in any amount elected for the taxable year by the 58083
qualifying controlled group. The election shall be revocable and 58084

amendable during the period prescribed by division (B) of section 58085
5733.12 of the Revised Code. 58086

Sec. 5733.352. (A) As used in this section: 58087

(1) "Borrower" means any person that receives a loan from the 58088
director of development under section 166.21 of the Revised Code, 58089
regardless of whether the borrower is subject to the taxes imposed 58090
by sections 5733.06, 5733.065, and 5733.066 of the Revised Code. 58091

(2) "Related member" has the same meaning as in section 58092
5733.042 of the Revised Code. 58093

(3) "Qualified research and development loan payments" has 58094
the same meaning as in division (D) of section 166.21 of the 58095
Revised Code. 58096

(B) Beginning ~~in~~ with tax year 2004 and ending with tax year 58097
2008, a nonrefundable credit is allowed against the taxes imposed 58098
by sections 5733.06, 5733.065, and 5733.066 of the Revised Code 58099
equal to a borrower's qualified research and development loan 58100
payments made during the calendar year immediately preceding the 58101
tax year for which the credit is claimed. The amount of the credit 58102
for a tax year shall not exceed one hundred fifty thousand 58103
dollars. No taxpayer is entitled to claim a credit under this 58104
section unless it has obtained a certificate issued by the 58105
director of development under division (D) of section 166.21 of 58106
the Revised Code. The credit shall be claimed in the order 58107
required under section 5733.98 of the Revised Code. The credit, to 58108
the extent it exceeds the taxpayer's tax liability for the tax 58109
year after allowance for any other credits that precede the credit 58110
under this section in that order, shall be carried forward to the 58111
next succeeding tax year or years until fully used. Any credit not 58112
fully utilized by tax year 2008 may be carried forward and applied 58113
against the tax levied by Chapter 5751. of the Revised Code to the 58114

extent allowed under section 5751.52 of the Revised Code. 58115

(C) A borrower entitled to a credit under this section may 58116
assign the credit, or a portion thereof, to any of the following: 58117

(1) A related member of that borrower; 58118

(2) The owner or lessee of the eligible research and 58119
development project; 58120

(3) A related member of the owner or lessee of the eligible 58121
research and development project. 58122

A borrower making an assignment under this division shall 58123
provide written notice of the assignment to the tax commissioner 58124
and the director of development, in such form as the tax 58125
commissioner prescribes, before the credit that was assigned is 58126
used. The assignor may not claim the credit to the extent it was 58127
assigned to an assignee. The assignee may claim the credit only to 58128
the extent the assignor has not claimed it. 58129

(D) If any taxpayer is a partner in a partnership or a member 58130
in a limited liability company treated as a partnership for 58131
federal income tax purposes, the taxpayer shall be allowed the 58132
taxpayer's distributive or proportionate share of the credit 58133
available through the partnership or limited liability company. 58134

(E) The aggregate credit against the taxes imposed by 58135
sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised 58136
Code that may be claimed under this section and section 5747.331 58137
of the Revised Code by a borrower as a result of qualified 58138
research and development loan payments attributable during a 58139
calendar year to any one loan shall not exceed one hundred fifty 58140
thousand dollars. 58141

Sec. 5733.40. As used in sections 5733.40 and 5733.41 and 58142
Chapter 5747. of the Revised Code: 58143

(A)(1) "Adjusted qualifying amount" means either of the 58144

following: 58145

(a) The sum of a each qualifying investor's distributive 58146
share of the income, gain, expense, or loss of a qualifying 58147
pass-through entity for the qualifying taxable year of the 58148
qualifying pass-through entity multiplied by the apportionment 58149
fraction defined in division (B) of this section, subject to 58150
section 5733.401 of the Revised Code and divisions (A)(2) to (7) 58151
of this section; 58152

(b) The sum of a each qualifying beneficiary's share of the 58153
qualifying net income and qualifying net gain distributed by a 58154
qualifying trust for the qualifying taxable year of the qualifying 58155
trust multiplied by the apportionment fraction defined in division 58156
(B) of this section, subject to section 5733.401 of the Revised 58157
Code and divisions (A)(2) to ~~(6)~~(7) of this section. 58158

(2) The sum shall exclude any amount which, pursuant to the 58159
Constitution of the United States, the Constitution of Ohio, or 58160
any federal law is not subject to a tax on or measured by net 58161
income. 58162

(3) ~~The sum shall be increased by~~ For the purposes of 58163
Chapters 5733. and 5747. of the Revised Code, the profit or net 58164
income of the qualifying entity shall be increased by disallowing 58165
all amounts representing expenses, other than amounts described in 58166
division (A)(7) of this section, that the qualifying entity paid 58167
to or incurred with respect to direct or indirect transactions 58168
with one or more related members, excluding the cost of goods sold 58169
calculated in accordance with section 263A of the Internal Revenue 58170
Code and United States department of the treasury regulations 58171
issued thereunder. Nothing in division (A)(3) of this section 58172
shall be construed to limit solely to this chapter the application 58173
of section 263A of the Internal Revenue Code and United States 58174
department of the treasury regulations issued thereunder. 58175

(4) ~~The sum shall be increased by~~ For the purposes of 58176
Chapters 5733. and 5747. of the Revised Code, the profit or net 58177
income of the qualifying entity shall be increased by disallowing 58178
all recognized losses, other than losses from sales of inventory 58179
the cost of which is calculated in accordance with section 263A of 58180
the Internal Revenue Code and United States department of the 58181
treasury regulations issued thereunder, with respect to all direct 58182
or indirect transactions with one or more related members. ~~Losses~~ 58183
For the purposes of Chapters 5733. and 5747. of the Revised Code, 58184
losses from the sales of such inventory shall be allowed only to 58185
the extent calculated in accordance with section 482 of the 58186
Internal Revenue Code and United States department of the treasury 58187
regulations issued thereunder. Nothing in division (A)(4) of this 58188
section shall be construed to limit solely to this section the 58189
application of section 263A and section 482 of the Internal 58190
Revenue Code and United States department of the treasury 58191
regulations issued thereunder. 58192

(5) The sum shall be increased or decreased by an amount 58193
equal to the qualifying investor's or qualifying beneficiary's 58194
distributive or proportionate share of the amount that the 58195
qualifying entity would be required to add or deduct under 58196
divisions (A)(20) and (21) of section 5747.01 of the Revised Code 58197
if the qualifying entity were a taxpayer for the purposes of 58198
Chapter 5747. of the Revised Code. 58199

(6) The sum shall be computed without regard to section 58200
5733.051 or division (D) of section 5733.052 of the Revised Code. 58201

(7) For the purposes of Chapters 5733. and 5747. of the 58202
Revised Code, guaranteed payments or compensation paid to 58203
investors by a qualifying entity that is not subject to the tax 58204
imposed by section 5733.06 of the Revised Code shall be considered 58205
a distributive share of income of the qualifying entity. Division 58206
(A)(7) of this section applies only to such payments or such 58207

compensation paid to an investor who at any time during the 58208
qualifying entity's taxable year holds at least a twenty per cent 58209
direct or indirect interest in the profits or capital of the 58210
qualifying entity. 58211

(B) "Apportionment fraction" means: 58212

(1) With respect to a qualifying pass-through entity other 58213
than a financial institution, the fraction calculated pursuant to 58214
division (B)(2) of section 5733.05 of the Revised Code as if the 58215
qualifying pass-through entity were a corporation subject to the 58216
tax imposed by section 5733.06 of the Revised Code; 58217

(2) With respect to a qualifying pass-through entity that is 58218
a financial institution, the fraction calculated pursuant to 58219
division (C) of section 5733.056 of the Revised Code as if the 58220
qualifying pass-through entity were a financial institution 58221
subject to the tax imposed by section 5733.06 of the Revised Code. 58222

(3) With respect to a qualifying trust, the fraction 58223
calculated pursuant to division (B)(2) of section 5733.05 of the 58224
Revised Code as if the qualifying trust were a corporation subject 58225
to the tax imposed by section 5733.06 of the Revised Code, except 58226
that the property, payroll, and sales fractions shall be 58227
calculated by including in the numerator and denominator of the 58228
fractions only the property, payroll, and sales, respectively, 58229
directly related to the production of income or gain from 58230
acquisition, ownership, use, maintenance, management, or 58231
disposition of tangible personal property located in this state at 58232
any time during the qualifying trust's qualifying taxable year or 58233
of real property located in this state. 58234

(C) "Qualifying beneficiary" means any individual that, 58235
during the qualifying taxable year of a qualifying trust, is a 58236
beneficiary of that trust, but does not include an individual who 58237
is a resident taxpayer for the purposes of Chapter 5747. of the 58238

Revised Code for the entire qualifying taxable year of the	58239
qualifying trust.	58240
(D) "Fiscal year" means an accounting period ending on any	58241
day other than the thirty-first day of December.	58242
(E) "Individual" means a natural person.	58243
(F) "Month" means a calendar month.	58244
(G) "Partnership" has the same meaning as in section 5747.01	58245
of the Revised Code.	58246
(H) "Investor" means any person that, during any portion of a	58247
taxable year of a qualifying pass-through entity, is a partner,	58248
member, shareholder, or investor in that qualifying pass-through	58249
entity.	58250
(I) Except as otherwise provided in section 5733.402 or	58251
5747.401 of the Revised Code, "qualifying investor" means any	58252
investor except those described in divisions (I)(1) to (9) of this	58253
section.	58254
(1) An investor satisfying one of the descriptions under	58255
section 501(a) or (c) of the Internal Revenue Code, a partnership	58256
with equity securities registered with the United States	58257
securities and exchange commission under section 12 of the	58258
"Securities Exchange Act of 1934," as amended, or an investor	58259
described in division (F) of section 3334.01, or division (A) or	58260
(C) of section 5733.09 of the Revised Code for the entire	58261
qualifying taxable year of the qualifying pass-through entity.	58262
(2) An investor who is either an individual or an estate and	58263
is a resident taxpayer for the purposes of section 5747.01 of the	58264
Revised Code for the entire qualifying taxable year of the	58265
qualifying pass-through entity.	58266
(3) An investor who is an individual for whom the qualifying	58267
pass-through entity makes a good faith and reasonable effort to	58268

comply fully and timely with the filing and payment requirements 58269
set forth in division (D) of section 5747.08 of the Revised Code 58270
and section 5747.09 of the Revised Code with respect to the 58271
individual's adjusted qualifying amount for the entire qualifying 58272
taxable year of the qualifying pass-through entity. 58273

(4) An investor that is another qualifying pass-through 58274
entity having only investors described in division (I)(1), (2), 58275
(3), or (6) of this section during the three-year period beginning 58276
twelve months prior to the first day of the qualifying taxable 58277
year of the qualifying pass-through entity. 58278

(5) An investor that is another pass-through entity having no 58279
investors other than individuals and estates during the qualifying 58280
taxable year of the qualifying pass-through entity in which it is 58281
an investor, and that makes a good faith and reasonable effort to 58282
comply fully and timely with the filing and payment requirements 58283
set forth in division (D) of section 5747.08 of the Revised Code 58284
and section 5747.09 of the Revised Code with respect to investors 58285
that are not resident taxpayers of this state for the purposes of 58286
Chapter 5747. of the Revised Code for the entire qualifying 58287
taxable year of the qualifying pass-through entity in which it is 58288
an investor. 58289

(6) An investor that is a financial institution required to 58290
calculate the tax in accordance with division ~~(D)~~(E) of section 58291
5733.06 of the Revised Code on the first day of January of the 58292
calendar year immediately following the last day of the financial 58293
institution's calendar or fiscal year in which ends the taxpayer's 58294
taxable year. 58295

(7) An investor other than an individual that satisfies all 58296
the following: 58297

(a) The investor submits a written statement to the 58298
qualifying pass-through entity stating that the investor 58299

irrevocably agrees that the investor has nexus with this state 58300
under the Constitution of the United States and is subject to and 58301
liable for the tax calculated under division (A) or (B) of section 58302
5733.06 of the Revised Code with respect to the investor's 58303
adjusted qualifying amount for the entire qualifying taxable year 58304
of the qualifying pass-through entity. The statement is subject to 58305
the penalties of perjury, shall be retained by the qualifying 58306
pass-through entity for no fewer than seven years, and shall be 58307
delivered to the tax commissioner upon request. 58308

(b) The investor makes a good faith and reasonable effort to 58309
comply timely and fully with all the reporting and payment 58310
requirements set forth in Chapter 5733. of the Revised Code with 58311
respect to the investor's adjusted qualifying amount for the 58312
entire qualifying taxable year of the qualifying pass-through 58313
entity. 58314

(c) Neither the investor nor the qualifying pass-through 58315
entity in which it is an investor, before, during, or after the 58316
qualifying pass-through entity's qualifying taxable year, carries 58317
out any transaction or transactions with one or more related 58318
members of the investor or the qualifying pass-through entity 58319
resulting in a reduction or deferral of tax imposed by Chapter 58320
5733. of the Revised Code with respect to all or any portion of 58321
the investor's adjusted qualifying amount for the qualifying 58322
pass-through entity's taxable year, or that constitute a sham, 58323
lack economic reality, or are part of a series of transactions the 58324
form of which constitutes a step transaction or transactions or 58325
does not reflect the substance of those transactions. 58326

(8) Any other investor that the tax commissioner may 58327
designate by rule. The tax commissioner may adopt rules including 58328
a rule defining "qualifying investor" or "qualifying beneficiary" 58329
and governing the imposition of the withholding tax imposed by 58330
section 5747.41 of the Revised Code with respect to an individual 58331

who is a resident taxpayer for the purposes of Chapter 5747. of 58332
the Revised Code for only a portion of the qualifying taxable year 58333
of the qualifying entity. 58334

(9) An investor that is a trust or fund the beneficiaries of 58335
which, during the qualifying taxable year of the qualifying 58336
pass-through entity, are limited to the following: 58337

(a) A person that is or may be the beneficiary of a trust 58338
subject to Subchapter D of Chapter 1 of Subtitle A of the Internal 58339
Revenue Code. 58340

(b) A person that is or may be the beneficiary of or the 58341
recipient of payments from a trust or fund that is a nuclear 58342
decommissioning reserve fund, a designated settlement fund, or any 58343
other trust or fund established to resolve and satisfy claims that 58344
may otherwise be asserted by the beneficiary or a member of the 58345
beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) 58346
of the Internal Revenue Code apply to the determination of whether 58347
such a person satisfies division (I)(9) of this section. 58348

(c) A person who is or may be the beneficiary of a trust 58349
that, under its governing instrument, is not required to 58350
distribute all of its income currently. Division (I)(9)(c) of this 58351
section applies only if the trust, prior to the due date for 58352
filing the qualifying pass-through entity's return for taxes 58353
imposed by section 5733.41 and sections 5747.41 to 5747.453 of the 58354
Revised Code, irrevocably agrees in writing that for the taxable 58355
year during or for which the trust distributes any of its income 58356
to any of its beneficiaries, the trust is a qualifying trust and 58357
will pay the estimated tax, and will withhold and pay the withheld 58358
tax, as required under sections 5747.40 to 5747.453 of the Revised 58359
Code. 58360

For the purposes of division (I)(9) of this section, a trust 58361
or fund shall be considered to have a beneficiary other than 58362

persons described under divisions (I)(9)(a) to (c) of this section 58363
if a beneficiary would not qualify under those divisions under the 58364
doctrines of "economic reality," "sham transaction," "step 58365
doctrine," or "substance over form." A trust or fund described in 58366
division (I)(9) of this section bears the burden of establishing 58367
by a preponderance of the evidence that any transaction giving 58368
rise to the tax benefits provided under division (I)(9) of this 58369
section does not have as a principal purpose a claim of those tax 58370
benefits. Nothing in this section shall be construed to limit 58371
solely to this section the application of the doctrines referred 58372
to in this paragraph. 58373

(J) "Qualifying net gain" means any recognized net gain with 58374
respect to the acquisition, ownership, use, maintenance, 58375
management, or disposition of tangible personal property located 58376
in this state at any time during a trust's qualifying taxable year 58377
or real property located in this state. 58378

(K) "Qualifying net income" means any recognized income, net 58379
of related deductible expenses, other than distributions 58380
deductions with respect to the acquisition, ownership, use, 58381
maintenance, management, or disposition of tangible personal 58382
property located in this state at any time during the trust's 58383
qualifying taxable year or real property located in this state. 58384

(L) "Qualifying entity" means a qualifying pass-through 58385
entity or a qualifying trust. 58386

(M) "Qualifying trust" means a trust subject to subchapter J 58387
of the Internal Revenue Code that, during any portion of the 58388
trust's qualifying taxable year, has income or gain from the 58389
acquisition, management, ownership, use, or disposition of 58390
tangible personal property located in this state at any time 58391
during the trust's qualifying taxable year or real property 58392
located in this state. "Qualifying trust" does not include a 58393

person described in section 501(c) of the Internal Revenue Code or 58394
a person described in division (C) of section 5733.09 of the 58395
Revised Code. 58396

(N) "Qualifying pass-through entity" means a pass-through 58397
entity as defined in section 5733.04 of the Revised Code, 58398
excluding: a person described in section 501(c) of the Internal 58399
Revenue Code; a partnership with equity securities registered 58400
with the United States securities and exchange commission under 58401
section 12 of the Securities Exchange Act of 1934, as amended; or 58402
a person described in division (C) of section 5733.09 of the 58403
Revised Code. 58404

(O) "Quarter" means the first three months, the second three 58405
months, the third three months, or the last three months of a 58406
qualifying entity's qualifying taxable year. 58407

(P) "Related member" has the same meaning as in division 58408
(A)(6) of section 5733.042 of the Revised Code without regard to 58409
division (B) of that section. However, for the purposes of 58410
divisions (A)(3) and (4) of this section only, "related member" 58411
has the same meaning as in division (A)(6) of section 5733.042 of 58412
the Revised Code without regard to division (B) of that section, 58413
but shall be applied by substituting "forty per cent" for "twenty 58414
per cent" wherever "twenty per cent" appears in division (A) of 58415
that section. 58416

(Q) "Return" or "report" means the notifications and reports 58417
required to be filed pursuant to sections 5747.42 to 5747.45 of 58418
the Revised Code for the purpose of reporting the tax imposed 58419
under section 5733.41 or 5747.41 of the Revised Code, and included 58420
declarations of estimated tax when so required. 58421

(R) "Qualifying taxable year" means the calendar year or the 58422
qualifying entity's fiscal year ending during the calendar year, 58423
or fractional part thereof, for which the adjusted qualifying 58424

amount is calculated pursuant to sections 5733.40 and 5733.41 or 58425
sections 5747.40 to 5747.453 of the Revised Code. 58426

(S) "Distributive share" includes the sum of the income, 58427
gain, expense, or loss of a disregarded entity or qualified 58428
subchapter S subsidiary. 58429

Sec. 5733.41. The purpose of the tax imposed by this section 58430
is to complement and to reinforce the tax imposed under section 58431
5733.06 of the Revised Code. 58432

For the same purposes for which the tax is levied under 58433
section 5733.06 of the Revised Code, there is hereby levied a tax 58434
on every qualifying pass-through entity having at least one 58435
qualifying investor that is not an individual. The tax imposed by 58436
this section is imposed on the sum of the adjusted qualifying 58437
amounts of the qualifying pass-through entity's qualifying 58438
investors that are not individuals at the ~~rate specified in~~ 58439
~~division (B) of section 5733.06 of the Revised Code that is in~~ 58440
~~effect on the last day of~~ following rates for the entity's taxable 58441
year years ending in the following calendar years: in 2005, six 58442
and eight-tenths per cent; in 2006, five and one-tenth per cent; 58443
in 2007, three and four-tenths per cent; in 2008, one and 58444
seven-tenths per cent; in 2009 and thereafter, zero per cent. 58445

The tax imposed by this section applies only if the 58446
qualifying entity has nexus with this state under the Constitution 58447
of the United States for any portion of the qualifying entity's 58448
qualifying taxable year, and the sum of the qualifying entity's 58449
adjusted qualifying amounts exceeds one thousand dollars for the 58450
qualifying entity's qualifying taxable year. This section does not 58451
apply to a pass-through entity if all of the partners, 58452
shareholders, members, or investors of the pass-through entity are 58453
taxpayers for the purposes of section 5733.04 of the Revised Code 58454
without regard to section 5733.09 of the Revised Code for the 58455

entire qualifying taxable year of the pass-through entity.

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If, prior to the due date of the return, a qualifying pass-through entity receives from an investor a written representation, under penalties of perjury, that the investor is described in division (I)(1), (2), (6), (7), (8), or (9) of section 5733.40 of the Revised Code for the qualifying pass-through entity's entire qualifying taxable year, the qualifying pass-through entity is not required to withhold or pay the taxes or estimated taxes imposed under this section or sections 5747.41 to 5747.453 of the Revised Code with respect to that investor for that qualifying taxable year, and is not subject to any interest or interest penalties for failure to withhold or pay those taxes or estimated taxes with respect to that investor for that qualifying taxable year.

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If, prior to the due date of the return, a qualifying trust receives from a beneficiary of that trust a written representation, under penalties of perjury, that the beneficiary is a resident taxpayer for the purposes of Chapter 5747. of the Revised Code for the qualifying trust's entire qualifying taxable year, the qualifying trust is not required to withhold or pay the taxes or estimated taxes imposed under this section or sections 5747.41 to 5747.453 of the Revised Code with respect to that beneficiary for that qualifying taxable year, and is not subject to any interest or interest penalties for failure to withhold or pay those taxes or estimated taxes with respect to that beneficiary for that qualifying taxable year.

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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.

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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 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 under those sections after all the taxpayer's credits are deducted

~~in that order. If~~ claim a refundable credit equal to the sum of 58519
the following: 58520

(1) The amount, if any, of the tax otherwise due under 58521
sections 5733.06, 5733.065, and 5733.066 of the Revised Code after 58522
all nonrefundable credits are deducted; 58523

(2) Seventy-five per cent of the difference between the 58524
amount of the refundable credit shown on the certificate and the 58525
tax otherwise due under sections 5733.06, 5733.065, and 5733.066 58526
of the Revised Code after all nonrefundable credits are deducted. 58527

(D) If the taxpayer elected a nonrefundable credit and the 58528
credit to which the taxpayer would otherwise be entitled under 58529
this section for any tax year is greater than the tax otherwise 58530
due under sections 5733.06, 5733.065, and 5733.066 of the Revised 58531
Code, after allowing for any other credits that, under section 58532
5733.98 of the Revised Code, precede the credit allowed under this 58533
section, the excess shall be allowed as a nonrefundable credit in 58534
each of the ensuing ten tax years, but the amount of any excess 58535
credit allowed in the ensuing tax year shall be deducted from the 58536
balance carried forward to the next tax year. 58537

Sec. 5739.01. As used in this chapter: 58538

(A) "Person" includes individuals, receivers, assignees, 58539
trustees in bankruptcy, estates, firms, partnerships, 58540
associations, joint-stock companies, joint ventures, clubs, 58541
societies, corporations, the state and its political subdivisions, 58542
and combinations of individuals of any form. 58543

(B) "Sale" and "selling" include all of the following 58544
transactions for a consideration in any manner, whether absolutely 58545
or conditionally, whether for a price or rental, in money or by 58546
exchange, and by any means whatsoever: 58547

(1) All transactions by which title or possession, or both, 58548

of tangible personal property, is or is to be transferred, or a 58549
license to use or consume tangible personal property is or is to 58550
be granted; 58551

(2) All transactions by which lodging by a hotel is or is to 58552
be furnished to transient guests; 58553

(3) All transactions by which: 58554

(a) An item of tangible personal property is or is to be 58555
repaired, except property, the purchase of which would not be 58556
subject to the tax imposed by section 5739.02 of the Revised Code; 58557

(b) An item of tangible personal property is or is to be 58558
installed, except property, the purchase of which would not be 58559
subject to the tax imposed by section 5739.02 of the Revised Code 58560
or property that is or is to be incorporated into and will become 58561
a part of a production, transmission, transportation, or 58562
distribution system for the delivery of a public utility service; 58563

(c) The service of washing, cleaning, waxing, polishing, or 58564
painting a motor vehicle is or is to be furnished; 58565

(d) Until August 1, 2003, industrial laundry cleaning 58566
services are or are to be provided and, on and after August 1, 58567
2003, laundry and dry cleaning services are or are to be provided; 58568

(e) Automatic data processing, computer services, or 58569
electronic information services are or are to be provided for use 58570
in business when the true object of the transaction is the receipt 58571
by the consumer of automatic data processing, computer services, 58572
or electronic information services rather than the receipt of 58573
personal or professional services to which automatic data 58574
processing, computer services, or electronic information services 58575
are incidental or supplemental. Notwithstanding any other 58576
provision of this chapter, such transactions that occur between 58577
members of an affiliated group are not sales. An affiliated group 58578

means two or more persons related in such a way that one person
owns or controls the business operation of another member of the
group. In the case of corporations with stock, one corporation
owns or controls another if it owns more than fifty per cent of
the other corporation's common stock with voting rights.

(f) Telecommunications service, other than mobile
telecommunications service after July 31, 2002, is or is to be
provided, but does not include transactions by which local
telecommunications service is obtained from a coin-operated
telephone and paid for by using coin;

(g) Landscaping and lawn care service is or is to be
provided;

(h) Private investigation and security service is or is to be
provided;

(i) Information services or tangible personal property is
provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to
be provided;

(k) Employment service is or is to be provided;

(l) Employment placement service is or is to be provided;

(m) Exterminating service is or is to be provided;

(n) Physical fitness facility service is or is to be
provided;

(o) Recreation and sports club service is or is to be
provided.

(p) After July 31, 2002, mobile telecommunications service is
or is to be provided when that service is situated to this state
pursuant to the "Mobile Telecommunications Sourcing Act," Pub. L.
No. 106-252, 114 Stat. 626 to 632 (2000), 4 U.S.C.A. 116 to 126,

as amended. 58608

(q) On and after August 1, 2003, satellite broadcasting 58609
service is or is to be provided; 58610

(r) On and after August 1, 2003, personal care service is or 58611
is to be provided to an individual. As used in this division, 58612
"personal care service" includes skin care, the application of 58613
cosmetics, manicuring, pedicuring, hair removal, tattooing, body 58614
piercing, tanning, massage, and other similar services. "Personal 58615
care service" does not include a service provided by or on the 58616
order of a licensed physician or licensed chiropractor, or the 58617
cutting, coloring, or styling of an individual's hair. 58618

(s) On and after August 1, 2003, the transportation of 58619
persons by motor vehicle or aircraft is or is to be provided, when 58620
the transportation is entirely within this state, except for 58621
transportation provided by an ambulance service, by a transit bus, 58622
as defined in section 5735.01 of the Revised Code, and 58623
transportation provided by a citizen of the United States holding 58624
a certificate of public convenience and necessity issued under 49 58625
U.S.C. 41102; 58626

(t) On and after August 1, 2003, motor vehicle towing service 58627
is or is to be provided. As used in this division, "motor vehicle 58628
towing service" means the towing or conveyance of a wrecked, 58629
disabled, or illegally parked motor vehicle. 58630

(u) On and after August 1, 2003, snow removal service is or 58631
is to be provided. As used in this division, "snow removal 58632
service" means the removal of snow by any mechanized means, but 58633
does not include the providing of such service by a person that 58634
has less than five thousand dollars in sales of such service 58635
during the calendar year. 58636

(4) All transactions by which printed, imprinted, 58637
overprinted, lithographic, multilithic, blueprinted, photostatic, 58638

or other productions or reproductions of written or graphic matter 58639
are or are to be furnished or transferred; 58640

(5) The production or fabrication of tangible personal 58641
property for a consideration for consumers who furnish either 58642
directly or indirectly the materials used in the production of 58643
fabrication work; and include the furnishing, preparing, or 58644
serving for a consideration of any tangible personal property 58645
consumed on the premises of the person furnishing, preparing, or 58646
serving such tangible personal property. Except as provided in 58647
section 5739.03 of the Revised Code, a construction contract 58648
pursuant to which tangible personal property is or is to be 58649
incorporated into a structure or improvement on and becoming a 58650
part of real property is not a sale of such tangible personal 58651
property. The construction contractor is the consumer of such 58652
tangible personal property, provided that the sale and 58653
installation of carpeting, the sale and installation of 58654
agricultural land tile, the sale and erection or installation of 58655
portable grain bins, or the provision of landscaping and lawn care 58656
service and the transfer of property as part of such service is 58657
never a construction contract. 58658

As used in division (B)(5) of this section: 58659

(a) "Agricultural land tile" means fired clay or concrete 58660
tile, or flexible or rigid perforated plastic pipe or tubing, 58661
incorporated or to be incorporated into a subsurface drainage 58662
system appurtenant to land used or to be used directly in 58663
production by farming, agriculture, horticulture, or floriculture. 58664
The term does not include such materials when they are or are to 58665
be incorporated into a drainage system appurtenant to a building 58666
or structure even if the building or structure is used or to be 58667
used in such production. 58668

(b) "Portable grain bin" means a structure that is used or to 58669

be used by a person engaged in farming or agriculture to shelter 58670
the person's grain and that is designed to be disassembled without 58671
significant damage to its component parts. 58672

(6) All transactions in which all of the shares of stock of a 58673
closely held corporation are transferred, if the corporation is 58674
not engaging in business and its entire assets consist of boats, 58675
planes, motor vehicles, or other tangible personal property 58676
operated primarily for the use and enjoyment of the shareholders; 58677

(7) All transactions in which a warranty, maintenance or 58678
service contract, or similar agreement by which the vendor of the 58679
warranty, contract, or agreement agrees to repair or maintain the 58680
tangible personal property of the consumer is or is to be 58681
provided; 58682

(8) ~~;(9)~~ The transfer of copyrighted motion picture films 58683
used solely for advertising purposes, except that the transfer of 58684
such films for exhibition purposes is not a sale. 58685

(9) On and after August 1, 2003, all transactions by which 58686
tangible personal property is or is to be stored, except such 58687
property that the consumer of the storage holds for sale in the 58688
regular course of business. 58689

Except ~~other than~~ as provided in this section, "sale" and 58690
"selling" do not include transfers of interest in leased property 58691
where the original lessee and the terms of the original lease 58692
agreement remain unchanged, or professional, insurance, or 58693
personal service transactions that involve the transfer of 58694
tangible personal property as an inconsequential element, for 58695
which no separate charges are made. 58696

(C) "Vendor" means the person providing the service or by 58697
whom the transfer effected or license given by a sale is or is to 58698
be made or given and, for sales described in division (B)(3)(i) of 58699
this section, the telecommunications service vendor that provides 58700

the nine hundred telephone service; if two or more persons are
engaged in business at the same place of business under a single
trade name in which all collections on account of sales by each
are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are
engaged in selling tangible personal property as received from
others, such as eyeglasses, mouthwashes, dentifrices, or similar
articles, are vendors. Veterinarians who are engaged in
transferring to others for a consideration drugs, the dispensing
of which does not require an order of a licensed veterinarian or
physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is
provided, to whom the transfer effected or license given by a sale
is or is to be made or given, to whom the service described in
division (B)(3)(f) or (i) of this section is charged, or to whom
the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated
by nonprofit institutions and persons licensed to practice
veterinary medicine, surgery, and dentistry are consumers of all
tangible personal property and services purchased by them in
connection with the practice of medicine, dentistry, the rendition
of hospital or blood bank service, or the practice of veterinary
medicine, surgery, and dentistry. In addition to being consumers
of drugs administered by them or by their assistants according to
their direction, veterinarians also are consumers of drugs that
under federal law may be dispensed only by or upon the order of a
licensed veterinarian or physician, when transferred by them to
others for a consideration to provide treatment to animals as
directed by the veterinarian.

(3) A person who performs a facility management, or similar
service contract for a contractee is a consumer of all tangible

personal property and services purchased for use in connection 58732
with the performance of such contract, regardless of whether title 58733
to any such property vests in the contractee. The purchase of such 58734
property and services is not subject to the exception for resale 58735
under division (E)(1) of this section. 58736

(4)(a) In the case of a person who purchases printed matter 58737
for the purpose of distributing it or having it distributed to the 58738
public or to a designated segment of the public, free of charge, 58739
that person is the consumer of that printed matter, and the 58740
purchase of that printed matter for that purpose is a sale. 58741

(b) In the case of a person who produces, rather than 58742
purchases, printed matter for the purpose of distributing it or 58743
having it distributed to the public or to a designated segment of 58744
the public, free of charge, that person is the consumer of all 58745
tangible personal property and services purchased for use or 58746
consumption in the production of that printed matter. That person 58747
is not entitled to claim exemption under division (B)(43)(f) of 58748
section 5739.02 of the Revised Code for any material incorporated 58749
into the printed matter or any equipment, supplies, or services 58750
primarily used to produce the printed matter. 58751

(c) The distribution of printed matter to the public or to a 58752
designated segment of the public, free of charge, is not a sale to 58753
the members of the public to whom the printed matter is 58754
distributed or to any persons who purchase space in the printed 58755
matter for advertising or other purposes. 58756

(5) A person who makes sales of any of the services listed in 58757
division (B)(3) of this section is the consumer of any tangible 58758
personal property used in performing the service. The purchase of 58759
that property is not subject to the resale exception under 58760
division (E)(1) of this section. 58761

(6) A person who engages in highway transportation for hire 58762

is the consumer of all packaging materials purchased by that 58763
person and used in performing the service, except for packaging 58764
materials sold by such person in a transaction separate from the 58765
service. 58766

(E) "Retail sale" and "sales at retail" include all sales, 58767
except those in which the purpose of the consumer is to resell the 58768
thing transferred or benefit of the service provided, by a person 58769
engaging in business, in the form in which the same is, or is to 58770
be, received by the person. 58771

(F) "Business" includes any activity engaged in by any person 58772
with the object of gain, benefit, or advantage, either direct or 58773
indirect. "Business" does not include the activity of a person in 58774
managing and investing the person's own funds. 58775

(G) "Engaging in business" means commencing, conducting, or 58776
continuing in business, and liquidating a business when the 58777
liquidator thereof holds itself out to the public as conducting 58778
such business. Making a casual sale is not engaging in business. 58779

(H)(1)(a) "Price," except as provided in divisions (H)(2) and 58780
(3) of this section, means the total amount of consideration, 58781
including cash, credit, property, and services, for which tangible 58782
personal property or services are sold, leased, or rented, valued 58783
in money, whether received in money or otherwise, without any 58784
deduction for any of the following: 58785

(i) The vendor's cost of the property sold; 58786

(ii) The cost of materials used, labor or service costs, 58787
interest, losses, all costs of transportation to the vendor, all 58788
taxes imposed on the vendor, including the tax imposed under 58789
Chapter 5751. of the Revised Code, and any other expense of the 58790
vendor; 58791

(iii) Charges by the vendor for any services necessary to 58792

complete the sale;	58793
(iv) On and after August 1, 2003, delivery charges. As used	58794
in this division, "delivery charges" means charges by the vendor	58795
for preparation and delivery to a location designated by the	58796
consumer of tangible personal property or a service, including	58797
transportation, shipping, postage, handling, crating, and packing.	58798
(v) Installation charges;	58799
(vi) The value of exempt tangible personal property given to	58800
the consumer where taxable and exempt tangible personal property	58801
have been bundled together and sold by the vendor as a single	58802
product or piece of merchandise.	58803
(b) "Price" does not include any of the following:	58804
(i) Discounts, including cash, term, or coupons that are not	58805
reimbursed by a third party that are allowed by a vendor and taken	58806
by a consumer on a sale;	58807
(ii) Interest, financing, and carrying charges from credit	58808
extended on the sale of tangible personal property or services, if	58809
the amount is separately stated on the invoice, bill of sale, or	58810
similar document given to the purchaser;	58811
(iii) Any taxes legally imposed directly on the consumer that	58812
are separately stated on the invoice, bill of sale, or similar	58813
document given to the consumer. <u>For the purpose of this division,</u>	58814
<u>the tax imposed under Chapter 5751. of the Revised Code is not a</u>	58815
<u>tax directly on the consumer even if the tax or a portion thereof</u>	58816
<u>is separately stated.</u>	58817
(2) In the case of a sale of any new motor vehicle by a new	58818
motor vehicle dealer, as defined in section 4517.01 of the Revised	58819
Code, in which another motor vehicle is accepted by the dealer as	58820
part of the consideration received, "price" has the same meaning	58821
as in division (H)(1) of this section, reduced by the credit	58822

afforded the consumer by the dealer for the motor vehicle received 58823
in trade. 58824

(3) In the case of a sale of any watercraft or outboard motor 58825
by a watercraft dealer licensed in accordance with section 58826
1547.543 of the Revised Code, in which another watercraft, 58827
watercraft and trailer, or outboard motor is accepted by the 58828
dealer as part of the consideration received, "price" has the same 58829
meaning as in division (H)(1) of this section, reduced by the 58830
credit afforded the consumer by the dealer for the watercraft, 58831
watercraft and trailer, or outboard motor received in trade. As 58832
used in this division, "watercraft" includes an outdrive unit 58833
attached to the watercraft. 58834

(4) In the case of a transaction in which telecommunications 58835
service, mobile telecommunications service, or cable television 58836
service is sold in a bundled transaction with other distinct 58837
services for a single price that is not itemized, the entire price 58838
is subject to the taxes levied under sections 5739.02, 5739.021, 58839
5739.023, and 5739.026 of the Revised Code, unless the vendor can 58840
reasonably identify the nontaxable portion from its books and 58841
records kept in the regular course of business. Upon the request 58842
of the consumer, the vendor shall disclose to the consumer the 58843
selling price for the taxable services included in the selling 58844
price for the taxable and nontaxable services billed on an 58845
aggregated basis. The burden of proving any nontaxable charges is 58846
on the vendor. 58847

(I) "Receipts" means the total amount of the prices of the 58848
sales of vendors, provided that cash discounts allowed and taken 58849
on sales at the time they are consummated are not included, minus 58850
any amount deducted as a bad debt pursuant to section 5739.121 of 58851
the Revised Code. "Receipts" does not include the sale price of 58852
property returned or services rejected by consumers when the full 58853
sale price and tax are refunded either in cash or by credit. 58854

(J) "Place of business" means any location at which a person engages in business. 58855
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(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. 58857
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(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. 58862
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(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. 58873
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(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days. 58878
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(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail 58881
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sales, other than the distribution of printed matter which 58886
displays or describes and prices the item offered for sale, nor 58887
does it include delivery of a predetermined quantity of tangible 58888
personal property or transportation of property or personnel to or 58889
from a place where a service is performed, regardless of whether 58890
the vendor is a delivery vendor. 58891

(P) "Used directly in the rendition of a public utility 58892
service" means that property that is to be incorporated into and 58893
will become a part of the consumer's production, transmission, 58894
transportation, or distribution system and that retains its 58895
classification as tangible personal property after such 58896
incorporation; fuel or power used in the production, transmission, 58897
transportation, or distribution system; and tangible personal 58898
property used in the repair and maintenance of the production, 58899
transmission, transportation, or distribution system, including 58900
only such motor vehicles as are specially designed and equipped 58901
for such use. Tangible personal property and services used 58902
primarily in providing highway transportation for hire are not 58903
used directly in the rendition of a public utility service. 58904

(Q) "Refining" means removing or separating a desirable 58905
product from raw or contaminated materials by distillation or 58906
physical, mechanical, or chemical processes. 58907

(R) "Assembly" and "assembling" mean attaching or fitting 58908
together parts to form a product, but do not include packaging a 58909
product. 58910

(S) "Manufacturing operation" means a process in which 58911
materials are changed, converted, or transformed into a different 58912
state or form from which they previously existed and includes 58913
refining materials, assembling parts, and preparing raw materials 58914
and parts by mixing, measuring, blending, or otherwise committing 58915
such materials or parts to the manufacturing process. 58916

"Manufacturing operation" does not include packaging. 58917

(T) "Fiscal officer" means, with respect to a regional 58918
transit authority, the secretary-treasurer thereof, and with 58919
respect to a county that is a transit authority, the fiscal 58920
officer of the county transit board if one is appointed pursuant 58921
to section 306.03 of the Revised Code or the county auditor if the 58922
board of county commissioners operates the county transit system. 58923

(U) "Transit authority" means a regional transit authority 58924
created pursuant to section 306.31 of the Revised Code or a county 58925
in which a county transit system is created pursuant to section 58926
306.01 of the Revised Code. For the purposes of this chapter, a 58927
transit authority must extend to at least the entire area of a 58928
single county. A transit authority that includes territory in more 58929
than one county must include all the area of the most populous 58930
county that is a part of such transit authority. County population 58931
shall be measured by the most recent census taken by the United 58932
States census bureau. 58933

(V) "Legislative authority" means, with respect to a regional 58934
transit authority, the board of trustees thereof, and with respect 58935
to a county that is a transit authority, the board of county 58936
commissioners. 58937

(W) "Territory of the transit authority" means all of the 58938
area included within the territorial boundaries of a transit 58939
authority as they from time to time exist. Such territorial 58940
boundaries must at all times include all the area of a single 58941
county or all the area of the most populous county that is a part 58942
of such transit authority. County population shall be measured by 58943
the most recent census taken by the United States census bureau. 58944

(X) "Providing a service" means providing or furnishing 58945
anything described in division (B)(3) of this section for 58946
consideration. 58947

(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to the computer equipment;

(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;	58978
(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;	58979 58980 58981
(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;	58982 58983 58984 58985
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	58986 58987 58988
(g) Testing of business procedures;	58989
(h) Training personnel in business procedure applications;	58990
(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;	58991 58992 58993 58994 58995 58996
(j) Providing debt collection services by any oral, written, graphic, or electronic means.	58997 58998
The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services.	58999 59000
(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:	59001 59002 59003
(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any	59004 59005 59006 59007

similar public thoroughfare; 59008

(2) A person who engages in the transportation of personal 59009
property belonging to others for consideration over or on 59010
highways, roadways, streets, or any similar public thoroughfare 59011
but who could not have engaged in such transportation on December 59012
11, 1985, unless the person was the holder of a permit or 59013
certificate of the types described in division (Z)(1) of this 59014
section; 59015

(3) A person who leases a motor vehicle to and operates it 59016
for a person described by division (Z)(1) or (2) of this section. 59017

(AA) "Telecommunications service" means the transmission of 59018
any interactive, two-way electromagnetic communications, including 59019
voice, image, data, and information, through the use of any medium 59020
such as wires, cables, microwaves, cellular radio, radio waves, 59021
light waves, or any combination of those or similar media. 59022
"Telecommunications service" includes message toll service even 59023
though the vendor provides the message toll service by means of 59024
wide area transmission type service or private communications 59025
service purchased from another telecommunications service 59026
provider, and other related fees and ancillary services, including 59027
universal service fees, detailed billing service, directory 59028
assistance, service initiation, voice mail service, and vertical 59029
services, such as caller ID and three-way calling. 59030
"Telecommunications service" does not include any of the 59031
following: 59032

(1) Sales of telecommunications service billed to persons 59033
before January 1, 2004, by telephone companies subject to the 59034
excise tax imposed by Chapter 5727. of the Revised Code; 59035

(2) Sales of telecommunications service to a provider of 59036
telecommunications service or of mobile telecommunications 59037
service, including access services, for use in providing 59038

telecommunications service or mobile telecommunications service;	59039
(3) Value-added nonvoice services in which computer	59040
processing applications are used to act on the form, content,	59041
code, or protocol of the information to be transmitted;	59042
(4) Transmission of interactive video programming by a cable	59043
television system as defined in section 505.90 of the Revised	59044
Code;	59045
(5) After July 31, 2002, mobile telecommunications service.	59046
(BB) "Laundry and dry cleaning services" means removing soil	59047
or dirt from towels, linens, articles of clothing, or other fabric	59048
items that belong to others and supplying towels, linens, articles	59049
of clothing, or other fabric items. "Laundry and dry cleaning	59050
services" does not include the provision of self-service	59051
facilities for use by consumers to remove soil or dirt from	59052
towels, linens, articles of clothing, or other fabric items.	59053
(CC) "Magazines distributed as controlled circulation	59054
publications" means magazines containing at least twenty-four	59055
pages, at least twenty-five per cent editorial content, issued at	59056
regular intervals four or more times a year, and circulated	59057
without charge to the recipient, provided that such magazines are	59058
not owned or controlled by individuals or business concerns which	59059
conduct such publications as an auxiliary to, and essentially for	59060
the advancement of the main business or calling of, those who own	59061
or control them.	59062
(DD) "Landscaping and lawn care service" means the services	59063
of planting, seeding, sodding, removing, cutting, trimming,	59064
pruning, mulching, aerating, applying chemicals, watering,	59065
fertilizing, and providing similar services to establish, promote,	59066
or control the growth of trees, shrubs, flowers, grass, ground	59067
cover, and other flora, or otherwise maintaining a lawn or	59068
landscape grown or maintained by the owner for ornamentation or	59069

other nonagricultural purpose. However, "landscaping and lawn care
service" does not include the providing of such services by a
person who has less than five thousand dollars in sales of such
services during the calendar year.

(EE) "Private investigation and security service" means the
performance of any activity for which the provider of such service
is required to be licensed pursuant to Chapter 4749. of the
Revised Code, or would be required to be so licensed in performing
such services in this state, and also includes the services of
conducting polygraph examinations and of monitoring or overseeing
the activities on or in, or the condition of, the consumer's home,
business, or other facility by means of electronic or similar
monitoring devices. "Private investigation and security service"
does not include special duty services provided by off-duty police
officers, deputy sheriffs, and other peace officers regularly
employed by the state or a political subdivision.

(FF) "Information services" means providing conversation,
giving consultation or advice, playing or making a voice or other
recording, making or keeping a record of the number of callers,
and any other service provided to a consumer by means of a nine
hundred telephone call, except when the nine hundred telephone
call is the means by which the consumer makes a contribution to a
recognized charity.

(GG) "Research and development" means designing, creating, or
formulating new or enhanced products, equipment, or manufacturing
processes, and also means conducting scientific or technological
inquiry and experimentation in the physical sciences with the goal
of increasing scientific knowledge which may reveal the bases for
new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means
capitalized tangible personal property, and leased personal

property that would be capitalized if purchased, used by a person 59101
primarily to perform research and development. Tangible personal 59102
property primarily used in testing, as defined in division (A)(4) 59103
of section 5739.011 of the Revised Code, or used for recording or 59104
storing test results, is not qualified research and development 59105
equipment unless such property is primarily used by the consumer 59106
in testing the product, equipment, or manufacturing process being 59107
created, designed, or formulated by the consumer in the research 59108
and development activity or in recording or storing such test 59109
results. 59110

(II) "Building maintenance and janitorial service" means 59111
cleaning the interior or exterior of a building and any tangible 59112
personal property located therein or thereon, including any 59113
services incidental to such cleaning for which no separate charge 59114
is made. However, "building maintenance and janitorial service" 59115
does not include the providing of such service by a person who has 59116
less than five thousand dollars in sales of such service during 59117
the calendar year. 59118

(JJ) "Employment service" means providing or supplying 59119
personnel, on a temporary or long-term basis, to perform work or 59120
labor under the supervision or control of another, when the 59121
personnel so supplied receive their wages, salary, or other 59122
compensation from the provider of the service. "Employment 59123
service" does not include: 59124

(1) Acting as a contractor or subcontractor, where the 59125
personnel performing the work are not under the direct control of 59126
the purchaser. 59127

(2) Medical and health care services. 59128

(3) Supplying personnel to a purchaser pursuant to a contract 59129
of at least one year between the service provider and the 59130
purchaser that specifies that each employee covered under the 59131

contract is assigned to the purchaser on a permanent basis. 59132

(4) Transactions between members of an affiliated group, as 59133
defined in division (B)(3)(e) of this section. 59134

(KK) "Employment placement service" means locating or finding 59135
employment for a person or finding or locating an employee to fill 59136
an available position. 59137

(LL) "Exterminating service" means eradicating or attempting 59138
to eradicate vermin infestations from a building or structure, or 59139
the area surrounding a building or structure, and includes 59140
activities to inspect, detect, or prevent vermin infestation of a 59141
building or structure. 59142

(MM) "Physical fitness facility service" means all 59143
transactions by which a membership is granted, maintained, or 59144
renewed, including initiation fees, membership dues, renewal fees, 59145
monthly minimum fees, and other similar fees and dues, by a 59146
physical fitness facility such as an athletic club, health spa, or 59147
gymnasium, which entitles the member to use the facility for 59148
physical exercise. 59149

(NN) "Recreation and sports club service" means all 59150
transactions by which a membership is granted, maintained, or 59151
renewed, including initiation fees, membership dues, renewal fees, 59152
monthly minimum fees, and other similar fees and dues, by a 59153
recreation and sports club, which entitles the member to use the 59154
facilities of the organization. "Recreation and sports club" means 59155
an organization that has ownership of, or controls or leases on a 59156
continuing, long-term basis, the facilities used by its members 59157
and includes an aviation club, gun or shooting club, yacht club, 59158
card club, swimming club, tennis club, golf club, country club, 59159
riding club, amateur sports club, or similar organization. 59160

(OO) "Livestock" means farm animals commonly raised for food 59161
or food production, and includes but is not limited to cattle, 59162

sheep, goats, swine, and poultry. "Livestock" does not include 59163
invertebrates, fish, amphibians, reptiles, horses, domestic pets, 59164
animals for use in laboratories or for exhibition, or other 59165
animals not commonly raised for food or food production. 59166

(PP) "Livestock structure" means a building or structure used 59167
exclusively for the housing, raising, feeding, or sheltering of 59168
livestock, and includes feed storage or handling structures and 59169
structures for livestock waste handling. 59170

(QQ) "Horticulture" means the growing, cultivation, and 59171
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 59172
and nursery stock. As used in this division, "nursery stock" has 59173
the same meaning as in section 927.51 of the Revised Code. 59174

(RR) "Horticulture structure" means a building or structure 59175
used exclusively for the commercial growing, raising, or 59176
overwintering of horticultural products, and includes the area 59177
used for stocking, storing, and packing horticultural products 59178
when done in conjunction with the production of those products. 59179

(SS) "Newspaper" means an unbound publication bearing a title 59180
or name that is regularly published, at least as frequently as 59181
biweekly, and distributed from a fixed place of business to the 59182
public in a specific geographic area, and that contains a 59183
substantial amount of news matter of international, national, or 59184
local events of interest to the general public. 59185

(TT) "Professional racing team" means a person that employs 59186
at least twenty full-time employees for the purpose of conducting 59187
a motor vehicle racing business for profit. The person must 59188
conduct the business with the purpose of racing one or more motor 59189
racing vehicles in at least ten competitive professional racing 59190
events each year that comprise all or part of a motor racing 59191
series sanctioned by one or more motor racing sanctioning 59192
organizations. A "motor racing vehicle" means a vehicle for which 59193

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
receiving equipment or equipment used in the uplink process to the
satellite, and includes all service and rental charges, premium
channels or other special services, installation and repair
service charges, and any other charges having any connection with
the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property 59256
that can be seen, weighed, measured, felt, or touched, or that is 59257
in any other manner perceptible to the senses. For purposes of 59258
this chapter and Chapter 5741. of the Revised Code, "tangible 59259
personal property" includes motor vehicles, electricity, water, 59260
gas, steam, and prewritten computer software. 59261

(ZZ) "Direct mail" means printed material delivered or 59262
distributed by United States mail or other delivery service to a 59263
mass audience or to addressees on a mailing list provided by the 59264
consumer or at the direction of the consumer when the cost of the 59265
items are not billed directly to the recipients. "Direct mail" 59266
includes tangible personal property supplied directly or 59267
indirectly by the consumer to the direct mail vendor for inclusion 59268
in the package containing the printed material. "Direct mail" does 59269
not include multiple items of printed material delivered to a 59270
single address. 59271

(AAA) "Computer" means an electronic device that accepts 59272
information in digital or similar form and manipulates it for a 59273
result based on a sequence of instructions. 59274

(BBB) "Computer software" means a set of coded instructions 59275
designed to cause a computer or automatic data processing 59276
equipment to perform a task. 59277

(CCC) "Delivered electronically" means delivery of computer 59278
software from the seller to the purchaser by means other than 59279
tangible storage media. 59280

(DDD) "Prewritten computer software" means computer software, 59281
including prewritten upgrades, that is not designed and developed 59282
by the author or other creator to the specifications of a specific 59283
purchaser. The combining of two or more prewritten computer 59284
software programs or prewritten portions thereof does not cause 59285
the combination to be other than prewritten computer software. 59286

"Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

(EEE)(1) Prior to July 1, 2004, "food" means cereals and cereal products, milk and milk products including ice cream, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruits, fruit products, and pure fruit juices, condiments, sugar and sugar products, coffee and coffee substitutes, tea, and cocoa and cocoa products. "Food" does not include spirituous liquors, wine, mixed beverages, or beer; soft drinks; sodas and beverages that are ordinarily dispensed at or in connection with bars and soda fountains, other than coffee, tea, and cocoa; root beer and root beer extracts; malt and malt extracts; mineral oils, cod liver oils, and halibut liver oil; medicines, including tonics, vitamin preparations, and other products sold primarily for their medicinal properties; and water, including mineral, bottled, and carbonated waters, and ice.

(2) On and after July 1, 2004, "food" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans

and are consumed for their taste or nutritional value. "Food" does
not include alcoholic beverages, dietary supplements, soft drinks,
or tobacco.

(3) As used in division (EEE)(2) of this section:

(a) "Alcoholic beverages" means beverages that are suitable
for human consumption and contain one-half of one per cent or more
of alcohol by volume.

(b) "Dietary supplements" means any product, other than
tobacco, that is intended to supplement the diet and that is
intended for ingestion in tablet, capsule, powder, softgel,
gelcap, or liquid form, or, if not intended for ingestion in such
a form, is not represented as conventional food for use as a sole
item of a meal or of the diet; that is required to be labeled as a
dietary supplement, identifiable by the "supplement facts" box
found on the label, as required by 21 C.F.R. 101.36; and that
contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the
diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or
combination of any ingredient described in divisions
(EEE)(3)(b)(i) to (v) of this section.

(c) "Soft drinks" means nonalcoholic beverages that contain
natural or artificial sweeteners. "Soft drinks" does not include
beverages that contain milk or milk products, soy, rice, or
similar milk substitutes, or that contains greater than fifty per
cent vegetable or fruit juice by volume.

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. 59349
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(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body. 59351
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(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription. 59360
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(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. 59364
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(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. 59369
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(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a 59377
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missing portion of the body, prevent or correct physical deformity 59380
or malfunction, or support a weak or deformed portion of the body. 59381
As used in this division, "prosthetic device" does not include 59382
corrective eyeglasses, contact lenses, or dental prosthesis. 59383

(KKK)(1) "Fractional aircraft ownership program" means a 59384
program in which persons within an affiliated group sell and 59385
manage fractional ownership program aircraft, provided that at 59386
least one hundred airworthy aircraft are operated in the program 59387
and the program meets all of the following criteria: 59388

(a) Management services are provided by at least one program 59389
manager within an affiliated group on behalf of the fractional 59390
owners. 59391

(b) Each program aircraft is owned or possessed by at least 59392
one fractional owner. 59393

(c) Each fractional owner owns or possesses at least a 59394
one-sixteenth interest in at least one fixed-wing program 59395
aircraft. 59396

(d) A dry-lease aircraft interchange arrangement is in effect 59397
among all of the fractional owners. 59398

(e) Multi-year program agreements are in effect regarding the 59399
fractional ownership, management services, and dry-lease aircraft 59400
interchange arrangement aspects of the program. 59401

(2) As used in division (KKK)(1) of this section: 59402

(a) "Affiliated group" has the same meaning as in division 59403
(B)(3)(e) of this section. 59404

(b) "Fractional owner" means a person that owns or possesses 59405
at least a one-sixteenth interest in a program aircraft and has 59406
entered into the agreements described in division (KKK)(1)(e) of 59407
this section. 59408

(c) "Fractional ownership program aircraft" or "program 59409

aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby

levied on each retail sale made in this state. 59441

(A)(1) The tax shall be collected as provided in section 59442
5739.025 of the Revised Code, provided that on and after July 1, 59443
2003, and on or before June 30, 2005, the rate of tax shall be six 59444
per cent. On and after July 1, 2005, the rate of the tax shall be 59445
five and one-half per cent. The tax applies and is collectible 59446
when the sale is made, regardless of the time when the price is 59447
paid or delivered. 59448

(2) In the case of the lease or rental, with a fixed term of 59449
more than thirty days or an indefinite term with a minimum period 59450
of more than thirty days, of any motor vehicles designed by the 59451
manufacturer to carry a load of not more than one ton, watercraft, 59452
outboard motor, or aircraft, or of any tangible personal property, 59453
other than motor vehicles designed by the manufacturer to carry a 59454
load of more than one ton, to be used by the lessee or renter 59455
primarily for business purposes, the tax shall be collected by the 59456
vendor at the time the lease or rental is consummated and shall be 59457
calculated by the vendor on the basis of the total amount to be 59458
paid by the lessee or renter under the lease agreement. If the 59459
total amount of the consideration for the lease or rental includes 59460
amounts that are not calculated at the time the lease or rental is 59461
executed, the tax shall be calculated and collected by the vendor 59462
at the time such amounts are billed to the lessee or renter. In 59463
the case of an open-end lease or rental, the tax shall be 59464
calculated by the vendor on the basis of the total amount to be 59465
paid during the initial fixed term of the lease or rental, and for 59466
each subsequent renewal period as it comes due. As used in this 59467
division, "motor vehicle" has the same meaning as in section 59468
4501.01 of the Revised Code, and "watercraft" includes an outdrive 59469
unit attached to the watercraft. 59470

A lease with a renewal clause and a termination penalty or 59471
similar provision that applies if the renewal clause is not 59472

exercised is presumed to be a sham transaction. In such a case, 59473
the tax shall be calculated and paid on the basis of the entire 59474
length of the lease period, including any renewal periods, until 59475
the termination penalty or similar provision no longer applies. 59476
The taxpayer shall bear the burden, by a preponderance of the 59477
evidence, that the transaction or series of transactions is not a 59478
sham transaction. 59479

(3) Except as provided in division (A)(2) of this section, in 59480
the case of a sale, the price of which consists in whole or in 59481
part of the lease or rental of tangible personal property, the tax 59482
shall be measured by the installments of that lease or rental. 59483

(4) In the case of a sale of a physical fitness facility 59484
service or recreation and sports club service, the price of which 59485
consists in whole or in part of a membership for the receipt of 59486
the benefit of the service, the tax applicable to the sale shall 59487
be measured by the installments thereof. 59488

(B) The tax does not apply to the following: 59489

(1) Sales to the state or any of its political subdivisions, 59490
or to any other state or its political subdivisions if the laws of 59491
that state exempt from taxation sales made to this state and its 59492
political subdivisions; 59493

(2) Sales of food for human consumption off the premises 59494
where sold; 59495

(3) Sales of food sold to students only in a cafeteria, 59496
dormitory, fraternity, or sorority maintained in a private, 59497
public, or parochial school, college, or university; 59498

(4) Sales of newspapers and of magazine subscriptions and 59499
sales or transfers of magazines distributed as controlled 59500
circulation publications; 59501

(5) The furnishing, preparing, or serving of meals without 59502

charge by an employer to an employee provided the employer records 59503
the meals as part compensation for services performed or work 59504
done; 59505

(6) Sales of motor fuel upon receipt, use, distribution, or 59506
sale of which in this state a tax is imposed by the law of this 59507
state, but this exemption shall not apply to the sale of motor 59508
fuel on which a refund of the tax is allowable under division (A) 59509
of section 5735.14 of the Revised Code; and the tax commissioner 59510
may deduct the amount of tax levied by this section applicable to 59511
the price of motor fuel when granting a refund of motor fuel tax 59512
pursuant to division (A) of section 5735.14 of the Revised Code 59513
and shall cause the amount deducted to be paid into the general 59514
revenue fund of this state; 59515

(7) Sales of natural gas by a natural gas company, of water 59516
by a water-works company, or of steam by a heating company, if in 59517
each case the thing sold is delivered to consumers through pipes 59518
or conduits, and all sales of communications services by a 59519
telegraph company, all terms as defined in section 5727.01 of the 59520
Revised Code, and sales of electricity delivered through wires; 59521

(8) Casual sales by a person, or auctioneer employed directly 59522
by the person to conduct such sales, except as to such sales of 59523
motor vehicles, watercraft or outboard motors required to be 59524
titled under section 1548.06 of the Revised Code, watercraft 59525
documented with the United States coast guard, snowmobiles, and 59526
all-purpose vehicles as defined in section 4519.01 of the Revised 59527
Code; 59528

(9) Sales of services or tangible personal property, other 59529
than motor vehicles, mobile homes, and manufactured homes, by 59530
churches, organizations exempt from taxation under section 59531
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 59532
organizations operated exclusively for charitable purposes as 59533

defined in division (B)(12) of this section, provided that the
number of days on which such tangible personal property or
services, other than items never subject to the tax, are sold does
not exceed six in any calendar year. If the number of days on
which such sales are made exceeds six in any calendar year, the
church or organization shall be considered to be engaged in
business and all subsequent sales by it shall be subject to the
tax. In counting the number of days, all sales by groups within a
church or within an organization shall be considered to be sales
of that church or organization, except that sales made by separate
student clubs and other groups of students of a primary or
secondary school, and sales made by a parent-teacher association,
booster group, or similar organization that raises money to
support or fund curricular or extracurricular activities of a
primary or secondary school, shall not be considered to be sales
of such school, and sales by each such club, group, association,
or organization shall be counted separately for purposes of the
six-day limitation. This division does not apply to sales by a
noncommercial educational radio or television broadcasting
station.

(10) Sales not within the taxing power of this state under
the Constitution of the United States;

(11) Except for transactions that are sales under division
(B)(3)(s) of section 5739.01 of the Revised Code, the
transportation of persons or property, unless the transportation
is by a private investigation and security service;

(12) Sales of tangible personal property or services to
churches, to organizations exempt from taxation under section
501(c)(3) of the Internal Revenue Code of 1986, and to any other
nonprofit organizations operated exclusively for charitable
purposes in this state, no part of the net income of which inures
to the benefit of any private shareholder or individual, and no

substantial part of the activities of which consists of carrying 59566
on propaganda or otherwise attempting to influence legislation; 59567
sales to offices administering one or more homes for the aged or 59568
one or more hospital facilities exempt under section 140.08 of the 59569
Revised Code; and sales to organizations described in division (D) 59570
of section 5709.12 of the Revised Code. 59571

"Charitable purposes" means the relief of poverty; the 59572
improvement of health through the alleviation of illness, disease, 59573
or injury; the operation of an organization exclusively for the 59574
provision of professional, laundry, printing, and purchasing 59575
services to hospitals or charitable institutions; the operation of 59576
a home for the aged, as defined in section 5701.13 of the Revised 59577
Code; the operation of a radio or television broadcasting station 59578
that is licensed by the federal communications commission as a 59579
noncommercial educational radio or television station; the 59580
operation of a nonprofit animal adoption service or a county 59581
humane society; the promotion of education by an institution of 59582
learning that maintains a faculty of qualified instructors, 59583
teaches regular continuous courses of study, and confers a 59584
recognized diploma upon completion of a specific curriculum; the 59585
operation of a parent-teacher association, booster group, or 59586
similar organization primarily engaged in the promotion and 59587
support of the curricular or extracurricular activities of a 59588
primary or secondary school; the operation of a community or area 59589
center in which presentations in music, dramatics, the arts, and 59590
related fields are made in order to foster public interest and 59591
education therein; the production of performances in music, 59592
dramatics, and the arts; or the promotion of education by an 59593
organization engaged in carrying on research in, or the 59594
dissemination of, scientific and technological knowledge and 59595
information primarily for the public. 59596

Nothing in this division shall be deemed to exempt sales to 59597

any organization for use in the operation or carrying on of a 59598
trade or business, or sales to a home for the aged for use in the 59599
operation of independent living facilities as defined in division 59600
(A) of section 5709.12 of the Revised Code. 59601

(13) Building and construction materials and services sold to 59602
construction contractors for incorporation into a structure or 59603
improvement to real property under a construction contract with 59604
this state or a political subdivision of this state, or with the 59605
United States government or any of its agencies; building and 59606
construction materials and services sold to construction 59607
contractors for incorporation into a structure or improvement to 59608
real property that are accepted for ownership by this state or any 59609
of its political subdivisions, or by the United States government 59610
or any of its agencies at the time of completion of the structures 59611
or improvements; building and construction materials sold to 59612
construction contractors for incorporation into a horticulture 59613
structure or livestock structure for a person engaged in the 59614
business of horticulture or producing livestock; building 59615
materials and services sold to a construction contractor for 59616
incorporation into a house of public worship or religious 59617
education, or a building used exclusively for charitable purposes 59618
under a construction contract with an organization whose purpose 59619
is as described in division (B)(12) of this section; building 59620
materials and services sold to a construction contractor for 59621
incorporation into a building under a construction contract with 59622
an organization exempt from taxation under section 501(c)(3) of 59623
the Internal Revenue Code of 1986 when the building is to be used 59624
exclusively for the organization's exempt purposes; building and 59625
construction materials sold for incorporation into the original 59626
construction of a sports facility under section 307.696 of the 59627
Revised Code; and building and construction materials and services 59628
sold to a construction contractor for incorporation into real 59629

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.

(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.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption directly in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption directly in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being, dispensed 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;

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and

emergency medical services, for political subdivisions of the 59694
state; 59695

(21) Sales of tangible personal property manufactured in this 59696
state, if sold by the manufacturer in this state to a retailer for 59697
use in the retail business of the retailer outside of this state 59698
and if possession is taken from the manufacturer by the purchaser 59699
within this state for the sole purpose of immediately removing the 59700
same from this state in a vehicle owned by the purchaser; 59701

(22) Sales of services provided by the state or any of its 59702
political subdivisions, agencies, instrumentalities, institutions, 59703
or authorities, or by governmental entities of the state or any of 59704
its political subdivisions, agencies, instrumentalities, 59705
institutions, or authorities; 59706

(23) Sales of motor vehicles to nonresidents of this state 59707
upon the presentation of an affidavit executed in this state by 59708
the nonresident purchaser affirming that the purchaser is a 59709
nonresident of this state, that possession of the motor vehicle is 59710
taken in this state for the sole purpose of immediately removing 59711
it from this state, that the motor vehicle will be permanently 59712
titled and registered in another state, and that the motor vehicle 59713
will not be used in this state; 59714

(24) Sales to persons engaged in the preparation of eggs for 59715
sale of tangible personal property used or consumed directly in 59716
such preparation, including such tangible personal property used 59717
for cleaning, sanitizing, preserving, grading, sorting, and 59718
classifying by size; packages, including material and parts for 59719
packages, and machinery, equipment, and material for use in 59720
packaging eggs for sale; and handling and transportation equipment 59721
and parts therefor, except motor vehicles licensed to operate on 59722
public highways, used in intraplant or interplant transfers or 59723
shipment of eggs in the process of preparation for sale, when the 59724

plant or plants within or between which such transfers or 59725
shipments occur are operated by the same person. "Packages" 59726
includes containers, cases, baskets, flats, fillers, filler flats, 59727
cartons, closure materials, labels, and labeling materials, and 59728
"packaging" means placing therein. 59729

(25)(a) Sales of water to a consumer for residential use, 59730
except the sale of bottled water, distilled water, mineral water, 59731
carbonated water, or ice; 59732

(b) Sales of water by a nonprofit corporation engaged 59733
exclusively in the treatment, distribution, and sale of water to 59734
consumers, if such water is delivered to consumers through pipes 59735
or tubing. 59736

(26) Fees charged for inspection or reinspection of motor 59737
vehicles under section 3704.14 of the Revised Code; 59738

(27) Sales to persons licensed to conduct a food service 59739
operation pursuant to section 3717.43 of the Revised Code, of 59740
tangible personal property primarily used directly for the 59741
following: 59742

(a) To prepare food for human consumption for sale; 59743

(b) To preserve food that has been or will be prepared for 59744
human consumption for sale by the food service operator, not 59745
including tangible personal property used to display food for 59746
selection by the consumer; 59747

(c) To clean tangible personal property used to prepare or 59748
serve food for human consumption for sale. 59749

(28) Sales of animals by nonprofit animal adoption services 59750
or county humane societies; 59751

(29) Sales of services to a corporation described in division 59752
(A) of section 5709.72 of the Revised Code, and sales of tangible 59753
personal property that qualifies for exemption from taxation under 59754

section 5709.72 of the Revised Code; 59755

(30) Sales and installation of agricultural land tile, as 59756
defined in division (B)(5)(a) of section 5739.01 of the Revised 59757
Code; 59758

(31) Sales and erection or installation of portable grain 59759
bins, as defined in division (B)(5)(b) of section 5739.01 of the 59760
Revised Code; 59761

(32) The sale, lease, repair, and maintenance of, parts for, 59762
or items attached to or incorporated in, motor vehicles that are 59763
primarily used for transporting tangible personal property 59764
belonging to others by a person engaged in highway transportation 59765
for hire, except for packages and packaging used for the 59766
transportation of tangible personal property; 59767

(33) Sales to the state headquarters of any veterans' 59768
organization in this state that is either incorporated and issued 59769
a charter by the congress of the United States or is recognized by 59770
the United States veterans administration, for use by the 59771
headquarters; 59772

(34) Sales to a telecommunications service vendor, mobile 59773
telecommunications service vendor, or satellite broadcasting 59774
service vendor of tangible personal property and services used 59775
directly and primarily in transmitting, receiving, switching, or 59776
recording any interactive, one- or two-way electromagnetic 59777
communications, including voice, image, data, and information, 59778
through the use of any medium, including, but not limited to, 59779
poles, wires, cables, switching equipment, computers, and record 59780
storage devices and media, and component parts for the tangible 59781
personal property. The exemption provided in this division shall 59782
be in lieu of all other exemptions under division (B)(43)(a) of 59783
this section to which the vendor may otherwise be entitled, based 59784
upon the use of the thing purchased in providing the 59785

telecommunications, mobile telecommunications, or satellite 59786
broadcasting service. 59787

(35) Sales of investment metal bullion and investment coins. 59788
"Investment metal bullion" means any elementary precious metal 59789
that has been put through a process of smelting or refining, 59790
including, but not limited to, gold, silver, platinum, and 59791
palladium, and which is in such state or condition that its value 59792
depends upon its content and not upon its form. "Investment metal 59793
bullion" does not include fabricated precious metal that has been 59794
processed or manufactured for one or more specific and customary 59795
industrial, professional, or artistic uses. "Investment coins" 59796
means numismatic coins or other forms of money and legal tender 59797
manufactured of gold, silver, platinum, palladium, or other metal 59798
under the laws of the United States or any foreign nation with a 59799
fair market value greater than any statutory or nominal value of 59800
such coins. 59801

(36)(a) Sales where the purpose of the consumer is to use or 59802
consume the things transferred in making retail sales and 59803
consisting of newspaper inserts, catalogues, coupons, flyers, gift 59804
certificates, or other advertising material that prices and 59805
describes tangible personal property offered for retail sale. 59806

(b) Sales to direct marketing vendors of preliminary 59807
materials such as photographs, artwork, and typesetting that will 59808
be used in printing advertising material; of printed matter that 59809
offers free merchandise or chances to win sweepstake prizes and 59810
that is mailed to potential customers with advertising material 59811
described in division (B)(36)(a) of this section; and of equipment 59812
such as telephones, computers, facsimile machines, and similar 59813
tangible personal property primarily used to accept orders for 59814
direct marketing retail sales. 59815

(c) Sales of automatic food vending machines that preserve 59816

food with a shelf life of forty-five days or less by refrigeration 59817
and dispense it to the consumer. 59818

For purposes of division (B)(36) of this section, "direct 59819
marketing" means the method of selling where consumers order 59820
tangible personal property by United States mail, delivery 59821
service, or telecommunication and the vendor delivers or ships the 59822
tangible personal property sold to the consumer from a warehouse, 59823
catalogue distribution center, or similar fulfillment facility by 59824
means of the United States mail, delivery service, or common 59825
carrier. 59826

(37) Sales to a person engaged in the business of 59827
horticulture or producing livestock of materials to be 59828
incorporated into a horticulture structure or livestock structure; 59829

(38) Sales of personal computers, computer monitors, computer 59830
keyboards, modems, and other peripheral computer equipment to an 59831
individual who is licensed or certified to teach in an elementary 59832
or a secondary school in this state for use by that individual in 59833
preparation for teaching elementary or secondary school students; 59834

(39) Sales to a professional racing team of any of the 59835
following: 59836

(a) Motor racing vehicles; 59837

(b) Repair services for motor racing vehicles; 59838

(c) Items of property that are attached to or incorporated in 59839
motor racing vehicles, including engines, chassis, and all other 59840
components of the vehicles, and all spare, replacement, and 59841
rebuilt parts or components of the vehicles; except not including 59842
tires, consumable fluids, paint, and accessories consisting of 59843
instrumentation sensors and related items added to the vehicle to 59844
collect and transmit data by means of telemetry and other forms of 59845
communication. 59846

(40) Sales of used manufactured homes and used mobile homes, 59847
as defined in section 5739.0210 of the Revised Code, made on or 59848
after January 1, 2000; 59849

(41) Sales of tangible personal property and services to a 59850
provider of electricity used or consumed directly and primarily in 59851
generating, transmitting, or distributing electricity for use by 59852
others, including property that is or is to be incorporated into 59853
and will become a part of the consumer's production, transmission, 59854
or distribution system and that retains its classification as 59855
tangible personal property after incorporation; fuel or power used 59856
in the production, transmission, or distribution of electricity; 59857
and tangible personal property and services used in the repair and 59858
maintenance of the production, transmission, or distribution 59859
system, including only those motor vehicles as are specially 59860
designed and equipped for such use. The exemption provided in this 59861
division shall be in lieu of all other exemptions in division 59862
(B)(43)(a) of this section to which a provider of electricity may 59863
otherwise be entitled based on the use of the tangible personal 59864
property or service purchased in generating, transmitting, or 59865
distributing electricity. 59866

(42) Sales to a person providing services under division 59867
(B)(3)(s) of section 5739.01 of the Revised Code of tangible 59868
personal property and services used directly and primarily in 59869
providing taxable services under that section. 59870

(43) Sales where the purpose of the purchaser is to do any of 59871
the following: 59872

(a) To incorporate the thing transferred as a material or a 59873
part into tangible personal property to be produced for sale by 59874
manufacturing, assembling, processing, or refining; or to use or 59875
consume the thing transferred directly in producing tangible 59876
personal property for sale by mining, including, without 59877

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.

(b) To hold the thing transferred as security for the
performance of an obligation of the vendor;

(c) To resell, hold, use, or consume the thing transferred as
evidence of a contract of insurance;

(d) To use or consume the thing directly in commercial
fishing;

(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
publications;

(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;

(g) To use the thing transferred, as described in section

5739.011 of the Revised Code, primarily in a manufacturing	59909
operation to produce tangible personal property for sale;	59910
(h) To use the benefit of a warranty, maintenance or service	59911
contract, or similar agreement, as described in division (B)(7) of	59912
section 5739.01 of the Revised Code, to repair or maintain	59913
tangible personal property, if all of the property that is the	59914
subject of the warranty, contract, or agreement would not be	59915
subject to the tax imposed by this section;	59916
(i) To use the thing transferred as qualified research and	59917
development equipment;	59918
(j) To use or consume the thing transferred primarily in	59919
storing, transporting, mailing, or otherwise handling purchased	59920
sales inventory in a warehouse, distribution center, or similar	59921
facility when the inventory is primarily distributed outside this	59922
state to retail stores of the person who owns or controls the	59923
warehouse, distribution center, or similar facility, to retail	59924
stores of an affiliated group of which that person is a member, or	59925
by means of direct marketing. This division does not apply to	59926
motor vehicles registered for operation on the public highways. As	59927
used in this division, "affiliated group" has the same meaning as	59928
in division (B)(3)(e) of section 5739.01 of the Revised Code and	59929
"direct marketing" has the same meaning as in division (B)(36) of	59930
this section.	59931
(k) To use or consume the thing transferred to fulfill a	59932
contractual obligation incurred by a warrantor pursuant to a	59933
warranty provided as a part of the price of the tangible personal	59934
property sold or by a vendor of a warranty, maintenance or service	59935
contract, or similar agreement the provision of which is defined	59936
as a sale under division (B)(7) of section 5739.01 of the Revised	59937
Code;	59938
(l) To use or consume the thing transferred in the production	59939

of a newspaper for distribution to the public; 59940

(m) To use tangible personal property to perform a service 59941
listed in division (B)(3) of section 5739.01 of the Revised Code, 59942
if the property is or is to be permanently transferred to the 59943
consumer of the service as an integral part of the performance of 59944
the service. 59945

As used in division (B)(43) of this section, "thing" includes 59946
all transactions included in divisions (B)(3)(a), (b), and (e) of 59947
section 5739.01 of the Revised Code. 59948

(44) Sales conducted through a coin operated device that 59949
activates vacuum equipment or equipment that dispenses water, 59950
whether or not in combination with soap or other cleaning agents 59951
or wax, to the consumer for the consumer's use on the premises in 59952
washing, cleaning, or waxing a motor vehicle, provided no other 59953
personal property or personal service is provided as part of the 59954
transaction. 59955

(45) Sales of replacement and modification parts for engines, 59956
airframes, instruments, and interiors in, and paint for, aircraft 59957
used primarily in a fractional aircraft ownership program, and 59958
sales of services for the repair, modification, and maintenance of 59959
such aircraft, and machinery, equipment, and supplies primarily 59960
used to provide those services. 59961

(46) Sales of telecommunications service that is used 59962
directly and primarily to perform the functions of a call center. 59963
As used in this division, "call center" means any physical 59964
location where telephone calls are placed or received in high 59965
volume for the purpose of making sales, marketing, customer 59966
service, technical support, or other specialized business 59967
activity, and that employs at least fifty individuals that engage 59968
in call center activities on a full-time basis, or sufficient 59969
individuals to fill fifty full-time equivalent positions. 59970

(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.

~~(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.

(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.

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.

(A) The taxes levied by sections 5739.02 and 5741.02 of the Revised Code shall be collected as follows:

(1) On and after July 1, 2003, and on or before June 30, 2005, in accordance with the following schedule:

If the price		The amount of	
is at least	But not more than	the tax is	
\$.01	\$.15	No tax	

.16	.16	1¢	60001
.17	.33	2¢	60002
.34	.50	3¢	60003
.51	.66	4¢	60004
.67	.83	5¢	60005
.84	1.00	6¢	60006

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.

(2) On and after July 1, 2005, and on and before December 31, 2005, in accordance with the following schedule:

If the price is at least	But not more than	The amount of the tax is	
\$.01	\$.15	No tax	60017
.16	.20	1¢	60018
	<u>.18</u>		60019
.21	.40	2¢	60020
<u>.19</u>	<u>.36</u>		60021
.41	.60	3¢	60022
<u>.37</u>	<u>.54</u>		60023
.61	.80	4¢	60024
<u>.55</u>	<u>.72</u>		60025
.81	1.00	5¢	60026
<u>.73</u>	<u>.90</u>		60027
<u>.91</u>	<u>1.09</u>	6¢	60028
<u>1.10</u>	<u>1.27</u>	7¢	60029
<u>1.28</u>	<u>1.46</u>	8¢	60030

<u>1.47</u>	<u>1.64</u>	<u>9¢</u>	60028
<u>1.65</u>	<u>1.82</u>	<u>10¢</u>	60029
<u>1.83</u>	<u>2.00</u>	<u>11¢</u>	60030

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 is at least	But not more than	The amount of the tax is	
\$.01	\$.15	No tax	60048
.16	.16	1¢	60049
.17	.32	2¢	60050
.33	.48	3¢	60051
.49	.64	4¢	60052
.65	.80	5¢	60053
.81	.96	6¢	60054
.97	1.12	7¢	60055
1.13	1.28	8¢	60056
1.29	1.44	9¢	60057

1.45	1.60	10¢	60060
1.61	1.76	11¢	60061
1.77	1.92	12¢	60062
1.93	2.08	13¢	60063
2.09	2.24	14¢	60064
2.25	2.40	15¢	60065
2.41	2.56	16¢	60066
2.57	2.72	17¢	60067
2.73	2.88	18¢	60068
2.89	3.04	19¢	60069
3.05	3.20	20¢	60070
3.21	3.36	21¢	60071
3.37	3.52	22¢	60072
3.53	3.68	23¢	60073
3.69	3.84	24¢	60074
3.85	4.00	25¢	60075

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:

If the price		The amount of	60087
is at least	But not more than	the tax is	60088
\$.01	\$.15	No tax	60089
.16	.30	2¢	60090
.31	.46	3¢	60091

.47	.61	4¢	60092
.62	.76	5¢	60093
.77	.92	6¢	60094
.93	1.07	7¢	60095
1.08	1.23	8¢	60096
1.24	1.38	9¢	60097
1.39	1.53	10¢	60098
1.54	1.69	11¢	60099
1.70	1.84	12¢	60100
1.85	2.00	13¢	60101

If the price exceeds two dollars, the tax is thirteen cents 60102
on each two dollars. If the price exceeds two dollars or a 60103
multiple thereof by not more than fifteen cents, the amount of tax 60104
is thirteen cents for each two dollars plus one cent. If the price 60105
exceeds two dollars or a multiple thereof by more than fifteen 60106
cents, the amount of tax is thirteen cents for each two dollars 60107
plus the amount of tax for prices sixteen cents through one dollar 60108
and ninety-nine cents in accordance with the schedule above. 60109

(3) When the combined rate of state and local tax is six and 60110
three-fourths per cent: 60111

If the price		The amount of	60112
is at least	But not more than	the tax is	60113
\$.01	\$.15	No tax	60114
.16	.29	2¢	60115
.30	.44	3¢	60116
.45	.59	4¢	60117
.60	.74	5¢	60118
.75	.88	6¢	60119
.89	1.03	7¢	60120
1.04	1.18	8¢	60121
1.19	1.33	9¢	60122
1.34	1.48	10¢	60123

is at least	But not more than	the tax is	60156
\$.01	\$.15	No tax	60157
.16	.28	2¢	60158
.29	.42	3¢	60159
.43	.57	4¢	60160
.58	.71	5¢	60161
.72	.85	6¢	60162
.86	1.00	7¢	60163

If the price exceeds one dollar, the tax is seven cents on 60164
each one dollar. If the price exceeds one dollar or a multiple 60165
thereof by not more than fifteen cents, the amount of tax is seven 60166
cents for each one dollar plus one cent. If the price exceeds one 60167
dollar or a multiple thereof by more than fifteen cents, the 60168
amount of tax is seven cents for each one dollar plus the amount 60169
of tax for prices sixteen cents through ninety-nine cents in 60170
accordance with the schedule above. 60171

(5) When the combined rate of state and local tax is seven 60172
and one-fourth per cent: 60173

If the price		The amount of	60174
is at least	But not more than	the tax is	60175
\$.01	\$.15	No tax	60176
.16	.27	2¢	60177
.28	.41	3¢	60178
.42	.55	4¢	60179
.56	.68	5¢	60180
.69	.82	6¢	60181
.83	.96	7¢	60182
.97	1.10	8¢	60183
1.11	1.24	9¢	60184
1.25	1.37	10¢	60185
1.38	1.51	11¢	60186
1.52	1.65	12¢	60187

is at least	But not more than	the tax is	
\$.01	\$.15	No tax	60220
.16	.26	2¢	60221
.27	.40	3¢	60222
.41	.53	4¢	60223
.54	.65	5¢	60224
.66	.80	6¢	60225
.81	.93	7¢	60226
.94	1.06	8¢	60227
1.07	1.20	9¢	60228
1.21	1.33	10¢	60229
1.34	1.46	11¢	60230
1.47	1.60	12¢	60231
1.61	1.73	13¢	60232
1.74	1.86	14¢	60233
1.87	2.00	15¢	60234

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.

(7) When the combined rate of state and local tax is seven and three-fourths per cent:

If the price	But not more than	The amount of	
is at least		the tax is	
\$.01	\$.15	No tax	60246
.16	.25	2¢	60247
.26	.38	3¢	60248
.39	.51	4¢	60249

.52	.64	5¢	60252
.65	.77	6¢	60253
.78	.90	7¢	60254
.91	1.03	8¢	60255
1.04	1.16	9¢	60256
1.17	1.29	10¢	60257
1.30	1.41	11¢	60258
1.42	1.54	12¢	60259
1.55	1.67	13¢	60260
1.68	1.80	14¢	60261
1.81	1.93	15¢	60262
1.94	2.06	16¢	60263
2.07	2.19	17¢	60264
2.20	2.32	18¢	60265
2.33	2.45	19¢	60266
2.46	2.58	20¢	60267
2.59	2.70	21¢	60268
2.71	2.83	22¢	60269
2.84	2.96	23¢	60270
2.97	3.09	24¢	60271
3.10	3.22	25¢	60272
3.23	3.35	26¢	60273
3.36	3.48	27¢	60274
3.49	3.61	28¢	60275
3.62	3.74	29¢	60276
3.75	3.87	30¢	60277
3.88	4.00	31¢	60278

If the price exceeds four dollars, the tax is thirty-one 60279
cents on each four dollars. If the price exceeds four dollars or a 60280
multiple thereof by not more than twelve cents, the amount of tax 60281
is thirty-one cents for each four dollars plus one cent. If the 60282
price exceeds four dollars or a multiple thereof by more than 60283
twelve cents but by not more than twenty-five cents, the amount of 60284

is at least	But not more than	the tax is	
			60317
\$.01	\$.15	No tax	60318
.16	.24	2¢	60319
.25	.36	3¢	60320
.37	.48	4¢	60321
.49	.60	5¢	60322
.61	.72	6¢	60323
.73	.84	7¢	60324
.85	.96	8¢	60325
.97	1.09	9¢	60326
1.10	1.21	10¢	60327
1.22	1.33	11¢	60328
1.34	1.45	12¢	60329
1.46	1.57	13¢	60330
1.58	1.69	14¢	60331
1.70	1.81	15¢	60332
1.82	1.93	16¢	60333
1.94	2.06	17¢	60334
2.07	2.18	18¢	60335
2.19	2.30	19¢	60336
2.31	2.42	20¢	60337
2.43	2.54	21¢	60338
2.55	2.66	22¢	60339
2.67	2.78	23¢	60340
2.79	2.90	24¢	60341
2.91	3.03	25¢	60342
3.04	3.15	26¢	60343
3.16	3.27	27¢	60344
3.28	3.39	28¢	60345
3.40	3.51	29¢	60346
3.52	3.63	30¢	60347
3.64	3.75	31¢	60348
3.76	3.87	32¢	60349

3.88 4.00 33¢ 60350

If the price exceeds four dollars, the tax is thirty-three 60351
cents on each four dollars. If the price exceeds four dollars or a 60352
multiple thereof by not more than eleven cents, the amount of tax 60353
is thirty-three cents for each four dollars plus one cent. If the 60354
price exceeds four dollars or a multiple thereof by more than 60355
eleven cents but by not more than twenty-four cents, the amount of 60356
tax is thirty-three cents for each four dollars plus two cents. If 60357
the price exceeds four dollars or a multiple thereof by more than 60358
twenty-four cents, the amount of tax is thirty-three cents for 60359
each four dollars plus the amount of tax for prices twenty-six 60360
cents through three dollars and ninety-nine cents in accordance 60361
with the schedule above. 60362

(10) When the combined rate of state and local tax is eight 60363
and one-half per cent: 60364

If the price		The amount of	
is at least	But not more than	the tax is	
\$.01	\$.15	No tax	60367
.16	.23	2¢	60368
.24	.35	3¢	60369
.36	.47	4¢	60370
.48	.58	5¢	60371
.59	.70	6¢	60372
.71	.82	7¢	60373
.83	.94	8¢	60374
.95	1.05	9¢	60375
1.06	1.17	10¢	60376
1.18	1.29	11¢	60377
1.30	1.41	12¢	60378
1.42	1.52	13¢	60379
1.53	1.64	14¢	60380
1.65	1.76	15¢	60381

1.77	1.88	16¢	60382
1.89	2.00	17¢	60383

If the price exceeds two dollars, the tax is seventeen cents 60384
on each two dollars. If the price exceeds two dollars or a 60385
multiple thereof by not more than eleven cents, the amount of tax 60386
is seventeen cents for each two dollars plus one cent. If the 60387
price exceeds two dollars or a multiple thereof by more than 60388
eleven cents but by not more than twenty-three cents, the amount 60389
of tax is seventeen cents for each two dollars plus two cents. If 60390
the price exceeds two dollars or a multiple thereof by more than 60391
twenty-three cents, the amount of tax is seventeen cents for each 60392
two dollars plus the amount of tax for prices twenty-four cents 60393
through one dollar and ninety-nine cents in accordance with the 60394
schedule above. 60395

(11) When the combined rate of state and local tax is eight 60396
and three-fourths per cent: 60397

If the price	The amount of	60398
is at least	the tax is	60399
But not more than	No tax	60400
\$.01	\$.15	60401
.16	.22	60402
.23	.34	60403
.35	.45	60404
.46	.57	60405
.58	.68	60406
.69	.80	60407
.81	.91	60408
.92	1.02	60409
1.03	1.14	60410
1.15	1.25	60411
1.26	1.37	60412
1.38	1.48	60413
1.49	1.60	

1.61	1.71	15¢	60414
1.72	1.82	16¢	60415
1.83	1.94	17¢	60416
1.95	2.05	18¢	60417
2.06	2.17	19¢	60418
2.18	2.28	20¢	60419
2.29	2.40	21¢	60420
2.41	2.51	22¢	60421
2.52	2.62	23¢	60422
2.63	2.74	24¢	60423
2.75	2.85	25¢	60424
2.86	2.97	26¢	60425
2.98	3.08	27¢	60426
3.09	3.20	28¢	60427
3.21	3.31	29¢	60428
3.32	3.42	30¢	60429
3.43	3.54	31¢	60430
	3.65	32¢	60431
3.66	3.77	33¢	60432
3.78	3.88	34¢	60433
3.89	4.00	35¢	60434

If the price exceeds four dollars, the tax is thirty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but by not more than twenty-two cents, the amount of tax is thirty-five cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-two cents, the amount of tax is thirty-five cents for each four dollars plus the amount of tax for prices twenty-three cents through three dollars and ninety-nine cents in accordance with the schedule above.

(12) When the combined rate of state and local tax is nine			60447
per cent:			60448
If the price		The amount of	60449
is at least	But not more than	the tax is	60450
\$.01	\$.15	No tax	60451
.16	.22	2¢	60452
.23	.33	3¢	60453
.34	.44	4¢	60454
.45	.55	5¢	60455
.56	.66	6¢	60456
.67	.77	7¢	60457
.78	.88	8¢	60458
.89	1.00	9¢	60459

If the price exceeds one dollar, the tax is nine cents on 60460
each one dollar. If the price exceeds one dollar or a multiple 60461
thereof by not more than eleven cents, the amount of tax is nine 60462
cents for each one dollar plus one cent. If the price exceeds one 60463
dollar or a multiple thereof by more than eleven cents but by not 60464
more than twenty-two cents, the amount of tax is nine cents for 60465
each one dollar plus two cents. If the price exceeds one dollar or 60466
a multiple thereof by more than twenty-two cents, the amount of 60467
tax is nine cents for each one dollar plus the amount of tax for 60468
prices twenty-three cents through ninety-nine cents in accordance 60469
with the schedule above. 60470

(C) On and after July 1, 2005, and on and before December 31, 60471
2005, the combined taxes levied by sections 5739.02 and 5741.02 60472
and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 60473
5741.022, and 5741.023 of the Revised Code shall be collected in 60474
accordance with the following schedules: 60475

(1) When the total rate of local tax is one-fourth per cent: 60476
~~If the price~~ ~~But not~~ ~~The amount~~ 60477
~~is at least~~ ~~more than~~ ~~of the tax is~~ 60478

\$.01	\$.15	No tax	60479
.16	.19	1¢	60480
.20	.38	2¢	60481
.39	.57	3¢	60482
.58	.76	4¢	60483
.77	.95	5¢	60484
.96	1.14	6¢	60485
1.15	1.33	7¢	60486
1.34	1.52	8¢	60487
1.53	1.71	9¢	60488
1.72	1.90	10¢	60489
1.91	2.09	11¢	60490
2.10	2.28	12¢	60491
2.29	2.47	13¢	60492
2.48	2.66	14¢	60493
2.67	2.85	15¢	60494
2.86	3.04	16¢	60495
3.05	3.23	17¢	60496
3.24	3.42	18¢	60497
3.43	3.61	19¢	60498
3.62	3.80	20¢	60499
3.81	4.00	21¢	60500

~~If the price exceeds four dollars, the tax is twenty one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than nineteen cents, the amount of tax is twenty one cents for each four dollars plus one cent. If 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	60511
is at least	more than	of the tax is	60512
\$.01	\$.15	No tax	60513
.16	.18	1¢	60514
.19	.36	2¢	60515
.37	.54	3¢	60516
.55	.72	4¢	60517
.73	.90	5¢	60518
.91	1.09	6¢	60519
1.10	1.27	7¢	60520
1.28	1.46	8¢	60521
1.47	1.64	9¢	60522
1.65	1.82	10¢	60523
1.83	2.00	11¢	60524

~~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	60535
is at least	more than	of the tax is	60536
\$.01	\$.15	No tax	60537
.16	.17	1¢	60538
.18	.34	2¢	60539
.35	.52	3¢	60540
.53	.69	4¢	60541
.70	.86	5¢	60542

.87	1.04	6¢	60543
1.05	1.21	7¢	60544
1.22	1.39	8¢	60545
1.40	1.56	9¢	60546
1.57	1.73	10¢	60547
1.74	1.91	11¢	60548
1.92	2.08	12¢	60549
2.09	2.26	13¢	60550
2.27	2.43	14¢	60551
2.44	2.60	15¢	60552
2.61	2.78	16¢	60553
2.79	2.95	17¢	60554
2.96	3.13	18¢	60555
3.14	3.30	19¢	60556
3.31	3.47	20¢	60557
3.48	3.65	21¢	60558
3.66	3.82	22¢	60559
3.83	4.00	23¢	60560

If the price exceeds four dollars, the tax is twenty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus the amount of tax for prices eighteen cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(4)~~(2) When the combined rate of local tax is ~~one~~ one-half per cent:

If the price	But not	The amount	60572
is at least	more than	of the tax is	60573
\$.01	\$.15	No tax	60574

.16	.17	1¢	60575
.18	.34	2¢	60576
.35	.50	3¢	60577
.51	.67	4¢	60578
.68	.83	5¢	60579
.84	1.00	6¢	60580

If the price exceeds one dollar, the tax is six cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than seventeen cents, the amount of tax is six cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than seventeen cents, the amount of tax is six cents for each one dollar plus the amount of tax for prices eighteen cents through ninety-nine cents in accordance with the schedule above.

~~(5)(3)~~ When the combined rate of local tax is ~~one and one-fourth~~ three-fourths per cent:

If the price is at least	But not more than	The amount of the tax is	
\$.01	\$.15	No tax	60593
.16	.16	1¢	60594
.17	.32	2¢	60595
.33	.48	3¢	60596
.49	.64	4¢	60597
.65	.80	5¢	60598
.81	.96	6¢	60599
.97	1.12	7¢	60600
1.13	1.28	8¢	60601
1.29	1.44	9¢	60602
1.45	1.60	10¢	60603
1.61	1.76	11¢	60604
1.77	1.92	12¢	60605
1.93	2.08	13¢	60606

2.09	2.24	14¢	60607
2.25	2.40	15¢	60608
2.41	2.56	16¢	60609
2.57	2.72	17¢	60610
2.73	2.88	18¢	60611
2.89	3.04	19¢	60612
3.05	3.20	20¢	60613
3.21	3.36	21¢	60614
3.37	3.52	22¢	60615
3.53	3.68	23¢	60616
3.69	3.84	24¢	60617
3.85	4.00	25¢	60618

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 is at least	But not more than	The amount of the tax is	
\$.01	\$.15	No tax	60630
.16	.30	2¢	60631
.31	.46	3¢	60632
.47	.61	4¢	60633
.62	.76	5¢	60634
.77	.92	6¢	60635
.93	1.07	7¢	60636

1.08	1.23	8¢	60639
1.24	1.38	9¢	60640
1.39	1.53	10¢	60641
1.54	1.69	11¢	60642
1.70	1.84	12¢	60643
1.85	2.00	13¢	60644

If the price exceeds two dollars, the tax is thirteen cents 60645
on each two dollars. If the price exceeds two dollars or a 60646
multiple thereof by not more than fifteen cents, the amount of tax 60647
is thirteen cents for each two dollars plus one cent. If the price 60648
exceeds two dollars or a multiple thereof by more than fifteen 60649
cents, the amount of tax is thirteen cents for each two dollars 60650
plus the amount of tax for prices sixteen cents through one dollar 60651
and ninety-nine cents in accordance with the schedule above. 60652

~~(7)(5)~~ When the combined rate of local tax is one and 60653
~~three-fourths~~ one-fourth per cent: 60654

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	60655
.16	.29	2¢	60656
.30	.44	3¢	60657
.45	.59	4¢	60658
.60	.74	5¢	60659
.75	.88	6¢	60660
.89	1.03	7¢	60661
1.04	1.18	8¢	60662
1.19	1.33	9¢	60663
1.34	1.48	10¢	60664
1.49	1.62	11¢	60665
1.63	1.77	12¢	60666
1.78	1.92	13¢	60667
1.93	2.07	14¢	60668

2.08	2.22	15¢	60671
2.23	2.37	16¢	60672
2.38	2.51	17¢	60673
2.52	2.66	18¢	60674
2.67	2.81	19¢	60675
2.82	2.96	20¢	60676
2.97	3.11	21¢	60677
3.12	3.25	22¢	60678
3.26	3.40	23¢	60679
3.41	3.55	24¢	60680
3.56	3.70	25¢	60681
3.71	3.85	26¢	60682
3.86	4.00	27¢	60683

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 is at least	But not more than	The amount of the tax is	
\$.01	\$.15	No tax	60698
.16	.28	2¢	60699
.29	.42	3¢	60700

.43	.57	4¢	60703
.58	.71	5¢	60704
.72	.85	6¢	60705
.86	1.00	7¢	60706

If the price exceeds one dollar, the tax is seven cents on 60707
each one dollar. If the price exceeds one dollar or a multiple 60708
thereof by not more than fifteen cents, the amount of tax is seven 60709
cents for each one dollar plus one cent. If the price exceeds one 60710
dollar or a multiple thereof by more than fifteen cents, the 60711
amount of tax is seven cents for each one dollar plus the amount 60712
of tax for prices sixteen cents through ninety-nine cents in 60713
accordance with the schedule above. 60714

~~(9)~~(7) When the combined rate of local tax is ~~two~~ one and 60715
~~one-fourth~~ three-fourths per cent: 60716

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	60719
.16	.27	2¢	60720
.28	.41	3¢	60721
.42	.55	4¢	60722
.56	.68	5¢	60723
.69	.82	6¢	60724
.83	.96	7¢	60725
.97	1.10	8¢	60726
1.11	1.24	9¢	60727
1.25	1.37	10¢	60728
1.38	1.51	11¢	60729
1.52	1.65	12¢	60730
1.66	1.79	13¢	60731
1.80	1.93	14¢	60732
1.94	2.06	15¢	60733
2.07	2.20	16¢	60734

2.21	2.34	17¢	60735
2.35	2.48	18¢	60736
2.49	2.62	19¢	60737
2.63	2.75	20¢	60738
2.76	2.89	21¢	60739
2.90	3.03	22¢	60740
3.04	3.17	23¢	60741
3.18	3.31	24¢	60742
3.32	3.44	25¢	60743
3.45	3.58	26¢	60744
3.59	3.72	27¢	60745
3.73	3.86	28¢	60746
3.87	4.00	29¢	60747

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 is at least	But not more than	The amount of the tax is	
\$.01	\$.15	No tax	60764
.16	.26	2¢	60765
.27	.40	3¢	60766

.41	.53	4¢	60767
.54	.65	5¢	60768
.66	.80	6¢	60769
.81	.93	7¢	60770
.94	1.06	8¢	60771
1.07	1.20	9¢	60772
1.21	1.33	10¢	60773
1.34	1.46	11¢	60774
1.47	1.60	12¢	60775
1.61	1.73	13¢	60776
1.74	1.86	14¢	60777
1.87	2.00	15¢	60778

If the price exceeds two dollars, the tax is fifteen cents on 60779
each two dollars. If the price exceeds two dollars or a multiple 60780
thereof by not more than fifteen cents, the amount of tax is 60781
fifteen cents for each two dollars plus one cent. If the price 60782
exceeds two dollars or a multiple thereof by more than fifteen 60783
cents, the amount of tax is fifteen cents for each two dollars 60784
plus the amount of tax for prices sixteen cents through one dollar 60785
and ninety-nine cents in accordance with the schedule above. 60786

~~(11)~~(9) When the combined rate of local tax is two and 60787
~~three-fourths~~ one-fourth per cent: 60788

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	60789
.16	.25	2¢	60790
.26	.38	3¢	60791
.39	.51	4¢	60792
.52	.64	5¢	60793
.65	.77	6¢	60794
.78	.90	7¢	60795
.91	1.03	8¢	60796

1.04	1.16	9¢	60799
1.17	1.29	10¢	60800
1.30	1.41	11¢	60801
1.42	1.54	12¢	60802
1.55	1.67	13¢	60803
1.68	1.80	14¢	60804
1.81	1.93	15¢	60805
1.94	2.06	16¢	60806
2.07	2.19	17¢	60807
2.20	2.32	18¢	60808
2.33	2.45	19¢	60809
2.46	2.58	20¢	60810
2.59	2.70	21¢	60811
2.71	2.83	22¢	60812
2.84	2.96	23¢	60813
2.97	3.09	24¢	60814
3.10	3.22	25¢	60815
3.23	3.35	26¢	60816
3.36	3.48	27¢	60817
3.49	3.61	28¢	60818
3.62	3.74	29¢	60819
3.75	3.87	30¢	60820
3.88	4.00	31¢	60821

If the price exceeds four dollars, the tax is thirty-one 60822
cents on each four dollars. If the price exceeds four dollars or a 60823
multiple thereof by not more than twelve cents, the amount of tax 60824
is thirty-one cents for each four dollars plus one cent. If the 60825
price exceeds four dollars or a multiple thereof by more than 60826
twelve cents but not more than twenty-five cents, the amount of 60827
tax is thirty-one cents for each four dollars plus two cents. If 60828
the price exceeds four dollars or a multiple thereof by more than 60829
twenty-five cents, the amount of tax is thirty-one cents for each 60830
four dollars plus the amount of tax for prices twenty-six cents 60831

through three dollars and ninety-nine cents in accordance with the schedule above. 60832
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~~(12)~~(10) When the combined rate of local tax is ~~three two and~~ one-half per cent: 60834
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If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	60836
.16	.25	2¢	60837
.26	.37	3¢	60838
.38	.50	4¢	60839
.51	.62	5¢	60840
.63	.75	6¢	60841
.76	.87	7¢	60842
.88	1.00	8¢	60843

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. 60844
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(11) When the combined rate of local tax is two and three-fourths per cent: 60857
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<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>	60859
<u>.16</u>	<u>.24</u>	<u>2¢</u>	60860
<u>.25</u>	<u>.36</u>	<u>3¢</u>	60861

<u>.37</u>	<u>.48</u>	<u>4¢</u>	60864
<u>.49</u>	<u>.60</u>	<u>5¢</u>	60865
<u>.61</u>	<u>.72</u>	<u>6¢</u>	60866
<u>.73</u>	<u>.84</u>	<u>7¢</u>	60867
<u>.85</u>	<u>.96</u>	<u>8¢</u>	60868
<u>.97</u>	<u>1.09</u>	<u>9¢</u>	60869
<u>1.10</u>	<u>1.21</u>	<u>10¢</u>	60870
<u>1.22</u>	<u>1.33</u>	<u>11¢</u>	60871
<u>1.34</u>	<u>1.45</u>	<u>12¢</u>	60872
<u>1.46</u>	<u>1.57</u>	<u>13¢</u>	60873
<u>1.58</u>	<u>1.69</u>	<u>14¢</u>	60874
<u>1.70</u>	<u>1.81</u>	<u>15¢</u>	60875
<u>1.82</u>	<u>1.93</u>	<u>16¢</u>	60876
<u>1.94</u>	<u>2.06</u>	<u>17¢</u>	60877
<u>2.07</u>	<u>2.18</u>	<u>18¢</u>	60878
<u>2.19</u>	<u>2.30</u>	<u>19¢</u>	60879
<u>2.31</u>	<u>2.42</u>	<u>20¢</u>	60880
<u>2.43</u>	<u>2.54</u>	<u>21¢</u>	60881
<u>2.55</u>	<u>2.66</u>	<u>22¢</u>	60882
<u>2.67</u>	<u>2.78</u>	<u>23¢</u>	60883
<u>2.79</u>	<u>2.90</u>	<u>24¢</u>	60884
<u>2.91</u>	<u>3.03</u>	<u>25¢</u>	60885
<u>3.04</u>	<u>3.15</u>	<u>26¢</u>	60886
<u>3.16</u>	<u>3.27</u>	<u>27¢</u>	60887
<u>3.28</u>	<u>3.39</u>	<u>28¢</u>	60888
<u>3.40</u>	<u>3.51</u>	<u>29¢</u>	60889
<u>3.52</u>	<u>3.63</u>	<u>30¢</u>	60890
<u>3.64</u>	<u>3.75</u>	<u>31¢</u>	60891
<u>3.76</u>	<u>3.87</u>	<u>32¢</u>	60892
<u>3.88</u>	<u>4.00</u>	<u>33¢</u>	60893
<u>If the price exceeds four dollars, the tax is thirty-three</u>			60894
<u>cents on each four dollars. If the price exceeds four dollars or a</u>			60895
<u>multiple thereof by not more than eleven cents, the amount of tax</u>			60896

is thirty-three cents for each four dollars plus one cent. If the 60897
price exceeds four dollars or a multiple thereof by more than 60898
eleven cents but not more than twenty-four cents, the amount of 60899
tax is thirty-three cents for each four dollars plus two cents. If 60900
the price exceeds four dollars or a multiple thereof by more than 60901
twenty-four cents, the amount of tax is thirty-three cents for 60902
each four dollars plus the amount of tax for prices twenty-six 60903
cents through three dollars and ninety-nine cents in accordance 60904
with the schedule above. 60905

(12) When the combined rate of local tax is three per cent: 60906

<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>	60909
<u>.16</u>	<u>.23</u>	<u>2¢</u>	60910
<u>.24</u>	<u>.35</u>	<u>3¢</u>	60911
<u>.36</u>	<u>.47</u>	<u>4¢</u>	60912
<u>.48</u>	<u>.58</u>	<u>5¢</u>	60913
<u>.59</u>	<u>.70</u>	<u>6¢</u>	60914
<u>.71</u>	<u>.82</u>	<u>7¢</u>	60915
<u>.83</u>	<u>.94</u>	<u>8¢</u>	60916
<u>.95</u>	<u>1.05</u>	<u>9¢</u>	60917
<u>1.06</u>	<u>1.17</u>	<u>10¢</u>	60918
<u>1.18</u>	<u>1.29</u>	<u>11¢</u>	60919
<u>1.30</u>	<u>1.41</u>	<u>12¢</u>	60920
<u>1.42</u>	<u>1.52</u>	<u>13¢</u>	60921
<u>1.53</u>	<u>1.64</u>	<u>14¢</u>	60922
<u>1.65</u>	<u>1.76</u>	<u>15¢</u>	60923
<u>1.77</u>	<u>1.88</u>	<u>16¢</u>	60924
<u>1.89</u>	<u>2.00</u>	<u>17¢</u>	60925

If the price exceeds two dollars, the tax is seventeen cents 60926
on each two dollars. If the price exceeds two dollars or a 60927
multiple thereof by not more than eleven cents, the amount of tax 60928

is seventeen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than eleven cents but not more than twenty-three cents, the amount of tax is seventeen cents for each two dollars plus two cents. If the price exceeds two dollars or a multiple thereof by more than twenty-three cents, the amount of tax is seventeen cents for each two dollars plus the amount of tax for prices twenty-four cents through one dollar and ninety-nine cents in accordance with the schedule above.

(D) In lieu of collecting the tax pursuant to the schedules set forth in divisions (A), (B), and (C) of this section, a vendor may compute the tax on each sale as follows:

(1) On sales of fifteen cents or less, no tax shall apply.

(2) On sales in excess of fifteen cents, multiply the price by the aggregate rate of taxes in effect under sections 5739.02 and 5741.02 and sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code. The computation shall be carried out to six decimal places. If the result is a fractional amount of a cent, the calculated tax shall be increased to the next highest cent and that amount shall be collected by the vendor.

(E) On and after January 1, 2006, a vendor shall compute the tax on each sale by multiplying the price by the aggregate rate of taxes in effect under sections 5739.02 and 5741.02, and sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code. The computation shall be carried out to three decimal places. If the result is a fractional amount of a cent, the calculated tax shall be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four. A vendor may elect to compute the tax due on a transaction on an item or an invoice basis.

(F) In auditing a vendor, the tax commissioner shall consider the method prescribed by this section that was used by the vendor in determining and collecting the tax due under this chapter on taxable transactions. If the vendor correctly collects and remits the tax due under this chapter in accordance with the schedules in divisions (A), (B), and (C) of this section or in accordance with the computation prescribed in division (D) or (E) of this section, the commissioner shall not assess any additional tax on those transactions.

(G)(1) With respect to a sale of a fractional ownership program aircraft used primarily in a fractional aircraft ownership program, including all accessories attached to such aircraft, the tax shall be calculated pursuant to divisions (A) to (E) of this section, provided that the tax commissioner shall modify those calculations so that the maximum tax on each program aircraft is eight hundred dollars. In the case of a sale of a fractional interest that is less than one hundred per cent of the program aircraft, the tax charged on the transaction shall be eight hundred dollars multiplied by a fraction, the numerator of which is the percentage of ownership or possession in the aircraft being purchased in the transaction, and the denominator of which is one hundred per cent.

(2) Notwithstanding any other provision of law to the contrary, the tax calculated under division (G)(1) of this section and paid with respect to the sale of a fractional ownership program aircraft used primarily in a fractional aircraft ownership program shall be credited to the general revenue fund.

Sec. 5739.10. (A) In addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure the same objectives specified in those sections, there is hereby

levied upon the privilege of engaging in the business of making 60991
retail sales, an excise tax of ~~six per cent on and after July 1,~~ 60992
~~2003, and on and before June 30, 2005, and an excise tax of five~~ 60993
~~per cent on and after July 1, 2005~~ equal to the tax levied by 60994
section 5739.02 of the Revised Code, or, in the case of retail 60995
sales subject to a tax levied pursuant to section 5739.021, 60996
5739.023, or 5739.026 of the Revised Code, a percentage equal to 60997
the aggregate rate of such taxes and the tax levied by section 60998
5739.02 of the Revised Code of the receipts derived from all 60999
retail sales, except those to which the excise tax imposed by 61000
section 5739.02 of the Revised Code is made inapplicable by 61001
division (B) of that section. 61002

(B) For the purpose of this section, no vendor shall be 61003
required to maintain records of sales of food for human 61004
consumption off the premises where sold, and no assessment shall 61005
be made against any vendor for sales of food for human consumption 61006
off the premises where sold, solely because the vendor has no 61007
records of, or has inadequate records of, such sales; provided 61008
that where a vendor does not have adequate records of receipts 61009
from the vendor's sales of food for human consumption on the 61010
premises where sold, the tax commissioner may refuse to accept the 61011
vendor's return and, upon the basis of test checks of the vendor's 61012
business for a representative period, and other information 61013
relating to the sales made by such vendor, determine the 61014
proportion that taxable retail sales bear to all of the vendor's 61015
retail sales. The tax imposed by this section shall be determined 61016
by deducting from the sum representing five and one-half or six 61017
per cent, as applicable under division (A) of this section, or, in 61018
the case of retail sales subject to a tax levied pursuant to 61019
section 5739.021, 5739.023, or 5739.026 of the Revised Code, a 61020
percentage equal to the aggregate rate of such taxes and the tax 61021
levied by section 5739.02 of the Revised Code of the receipts from 61022
such retail sales, the amount of tax paid to the state or to a 61023

clerk of a court of common pleas. The section does not affect any 61024
duty of the vendor under sections 5739.01 to 5739.19 and 5739.26 61025
to 5739.31 of the Revised Code, nor the liability of any consumer 61026
to pay any tax imposed by or pursuant to section 5739.02, 61027
5739.021, 5739.023, or 5739.026 of the Revised Code. 61028

Sec. 5741.02. (A)(1) For the use of the general revenue fund 61029
of the state, an excise tax is hereby levied on the storage, use, 61030
or other consumption in this state of tangible personal property 61031
or the benefit realized in this state of any service provided. The 61032
tax shall be collected as provided in section 5739.025 of the 61033
Revised Code, provided that on and after July 1, 2003, and on or 61034
before June 30, 2005, the rate of the tax shall be six per cent. 61035
On and after July 1, 2005, the rate of the tax shall be five and 61036
one-half per cent. 61037

(2) In the case of the lease or rental, with a fixed term of 61038
more than thirty days or an indefinite term with a minimum period 61039
of more than thirty days, of any motor vehicles designed by the 61040
manufacturer to carry a load of not more than one ton, watercraft, 61041
outboard motor, or aircraft, or of any tangible personal property, 61042
other than motor vehicles designed by the manufacturer to carry a 61043
load of more than one ton, to be used by the lessee or renter 61044
primarily for business purposes, the tax shall be collected by the 61045
seller at the time the lease or rental is consummated and shall be 61046
calculated by the seller on the basis of the total amount to be 61047
paid by the lessee or renter under the lease or rental agreement. 61048
If the total amount of the consideration for the lease or rental 61049
includes amounts that are not calculated at the time the lease or 61050
rental is executed, the tax shall be calculated and collected by 61051
the seller at the time such amounts are billed to the lessee or 61052
renter. In the case of an open-end lease or rental, the tax shall 61053
be calculated by the seller on the basis of the total amount to be 61054
paid during the initial fixed term of the lease or rental, and for 61055

each subsequent renewal period as it comes due. As used in this 61056
division, "motor vehicle" has the same meaning as in section 61057
4501.01 of the Revised Code, and "watercraft" includes an outdrive 61058
unit attached to the watercraft. 61059

(3) Except as provided in division (A)(2) of this section, in 61060
the case of a transaction, the price of which consists in whole or 61061
part of the lease or rental of tangible personal property, the tax 61062
shall be measured by the installments of those leases or rentals. 61063

(B) Each consumer, storing, using, or otherwise consuming in 61064
this state tangible personal property or realizing in this state 61065
the benefit of any service provided, shall be liable for the tax, 61066
and such liability shall not be extinguished until the tax has 61067
been paid to this state; provided, that the consumer shall be 61068
relieved from further liability for the tax if the tax has been 61069
paid to a seller in accordance with section 5741.04 of the Revised 61070
Code or prepaid by the seller in accordance with section 5741.06 61071
of the Revised Code. 61072

(C) The tax does not apply to the storage, use, or 61073
consumption in this state of the following described tangible 61074
personal property or services, nor to the storage, use, or 61075
consumption or benefit in this state of tangible personal property 61076
or services purchased under the following described circumstances: 61077

(1) When the sale of property or service in this state is 61078
subject to the excise tax imposed by sections 5739.01 to 5739.31 61079
of the Revised Code, provided said tax has been paid; 61080

(2) Except as provided in division (D) of this section, 61081
tangible personal property or services, the acquisition of which, 61082
if made in Ohio, would be a sale not subject to the tax imposed by 61083
sections 5739.01 to 5739.31 of the Revised Code; 61084

(3) Property or services, the storage, use, or other 61085
consumption of or benefit from which this state is prohibited from 61086

taxing by the Constitution of the United States, laws of the
United States, or the Constitution of this state. This exemption
shall not exempt from the application of the tax imposed by this
section the storage, use, or consumption of tangible personal
property that was purchased in interstate commerce, but that has
come to rest in this state, provided that fuel to be used or
transported in carrying on interstate commerce that is stopped
within this state pending transfer from one conveyance to another
is exempt from the excise tax imposed by this section and section
5739.02 of the Revised Code;

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(4) Transient use of tangible personal property in this state
by a nonresident tourist or vacationer, or a non-business use
within this state by a nonresident of this state, if the property
so used was purchased outside this state for use outside this
state and is not required to be registered or licensed under the
laws of this state;

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(5) Tangible personal property or services rendered, upon
which taxes have been paid to another jurisdiction to the extent
of the amount of the tax paid to such other jurisdiction. Where
the amount of the tax imposed by this section and imposed pursuant
to section 5741.021, 5741.022, or 5741.023 of the Revised Code
exceeds the amount paid to another jurisdiction, the difference
shall be allocated between the tax imposed by this section and any
tax imposed by a county or a transit authority pursuant to section
5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion
to the respective rates of such taxes.

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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

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entitle the taxpayer to any refund or credit for such payment. 61119

(6) The transfer of a used manufactured home or used mobile 61120
home, as defined by section 5739.0210 of the Revised Code, made on 61121
or after January 1, 2000; 61122

(7) Drugs that are or are intended to be distributed free of 61123
charge to a practitioner licensed to prescribe, dispense, and 61124
administer drugs to a human being in the course of a professional 61125
practice and that by law may be dispensed only by or upon the 61126
order of such a practitioner. 61127

(8) Computer equipment and related software leased from a 61128
lessor located outside this state and initially received in this 61129
state on behalf of the consumer by a third party that will retain 61130
possession of such property for not more than ninety days and that 61131
will, within that ninety-day period, deliver such property to the 61132
consumer at a location outside this state. Division (C)(8) of this 61133
section does not provide exemption from taxation for any otherwise 61134
taxable charges associated with such property while it is in this 61135
state or for any subsequent storage, use, or consumption of such 61136
property in this state by or on behalf of the consumer. 61137

(9) Cigarettes that have a wholesale value of three hundred 61138
dollars or less used, stored, or consumed, but not for resale, in 61139
any month. 61140

(D) The tax applies to the storage, use, or other consumption 61141
in this state of tangible personal property or services, the 61142
acquisition of which at the time of sale was excepted under 61143
division (E) of section 5739.01 of the Revised Code from the tax 61144
imposed by section 5739.02 of the Revised Code, but which has 61145
subsequently been temporarily or permanently stored, used, or 61146
otherwise consumed in a taxable manner. 61147

(E)(1) If any transaction is claimed to be exempt under 61148
division (E) of section 5739.01 of the Revised Code or under 61149

section 5739.02 of the Revised Code, with the exception of 61150
divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised 61151
Code, the consumer shall provide to the seller, and the seller 61152
shall obtain from the consumer, a certificate specifying the 61153
reason that the transaction is not subject to the tax. The 61154
certificate shall be provided either in a hard copy form or 61155
electronic form, as prescribed by the tax commissioner. If the 61156
transaction is claimed to be exempt under division (B)(13) of 61157
section 5739.02 of the Revised Code, the exemption certificate 61158
shall be provided by both the contractor and contractee. Such 61159
contractee shall be deemed to be the consumer of all items 61160
purchased under the claim of exemption, if it is subsequently 61161
determined that the exemption is not properly claimed. The 61162
certificate shall be in such form as the tax commissioner by rule 61163
prescribes. The seller shall maintain records, including exemption 61164
certificates, of all sales on which a consumer has claimed an 61165
exemption, and provide them to the tax commissioner on request. 61166

(2) If no certificate is provided or obtained within the 61167
period for filing the return for the period in which the 61168
transaction is consummated, it shall be presumed that the tax 61169
applies. The failure to have so provided or obtained a certificate 61170
shall not preclude a seller or consumer from establishing, within 61171
one hundred twenty days of the giving of notice by the 61172
commissioner of intention to levy an assessment, that the 61173
transaction is not subject to the tax. 61174

(F) A seller who files a petition for reassessment contesting 61175
the assessment of tax on transactions for which the seller 61176
obtained no valid exemption certificates, and for which the seller 61177
failed to establish that the transactions were not subject to the 61178
tax during the one-hundred-twenty-day period allowed under 61179
division (E) of this section, may present to the tax commissioner 61180
additional evidence to prove that the transactions were exempt. 61181

The seller shall file such evidence within ninety days of the receipt by the seller of the notice of assessment, except that, upon application and for reasonable cause, the tax commissioner may extend the period for submitting such evidence thirty days.

(G) For the purpose of the proper administration of sections 5741.01 to 5741.22 of the Revised Code, and to prevent the evasion of the tax hereby levied, it shall be presumed that any use, storage, or other consumption of tangible personal property in this state is subject to the tax until the contrary is established.

(H) The tax collected by the seller 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 use tax pursuant to section 5741.021 or 5741.023 of the Revised Code and of transit authorities levying an additional use tax pursuant to section 5741.022 of the Revised Code. Except for the discount authorized under section 5741.12 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 of such tax.

Sec. 5743.01. As used in this chapter:

(A) "Person" includes individuals, firms, partnerships, associations, joint-stock companies, corporations, combinations of individuals of any form, and the state and any of its political subdivisions.

(B) "Wholesale dealer" includes only those persons:

(1) Who bring in or cause to be brought into this state unstamped cigarettes purchased directly from the manufacturer, producer, or importer of cigarettes for sale in this state but

does not include persons who bring in or cause to be brought into
this state cigarettes with respect to which no evidence of tax
payment is required thereon as provided in section 5743.04 of the
Revised Code; or

(2) Who are engaged in the business of selling cigarettes or
tobacco products to others for the purpose of resale.

"Wholesale dealer" does not include any cigarette
manufacturer, export warehouse proprietor, or importer with a
valid permit under 26 U.S.C. 5713 if that person sells cigarettes
in this state only to wholesale dealers holding valid and current
licenses under section 5743.15 of the Revised Code or to an export
warehouse proprietor or another manufacturer.

(C) "Retail dealer" includes:

(1) In reference to dealers in cigarettes, every person other
than a wholesale dealer engaged in the business of selling
cigarettes in this state, irrespective regardless of whether the
person is located in this state or elsewhere, and regardless of
quantity, amount, or number of sales;

(2) In reference to dealers in tobacco products, any person
in this state engaged in the business of selling tobacco products
to ultimate consumers in this state, regardless of quantity,
amount, or number of sales.

(D) "Sale" includes exchange, barter, gift, offer for sale,
and distribution, and ~~excludes~~ includes transactions in interstate
or foreign commerce.

(E) "Cigarettes" includes any roll for smoking made wholly or
in part of tobacco, irrespective of size or shape, and whether or
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. 61242
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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. 61244
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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. 61247
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(H) "Storage" includes any keeping or retention of cigarettes or tobacco products for use or consumption in this state. 61249
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(I) "Use" includes the exercise of any right or power incidental to the ownership of cigarettes or tobacco products. 61251
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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. 61253
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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. 61256
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(L) "Distributor" means: 61265

(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 manufacturer a signed statement agreeing to pay and be liable for the tax imposed by section 5743.51 of the Revised Code; 61266
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(2) Any wholesale dealer located in the state who receives 61271

tobacco products from a manufacturer, or who receives tobacco products on which the tax imposed by this chapter has not been paid; 61272
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(3) Any wholesale dealer located outside the state who sells, barters, exchanges, or distributes tobacco products to a wholesale or retail dealer in the state; or 61275
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(4) Any retail dealer who receives tobacco products on which the tax has not or will not be paid by another distributor, including a retail dealer that has filed a signed statement with a manufacturer in which the retail dealer agrees to pay and be liable for the tax that would otherwise be imposed on the manufacturer by section 5743.51 of the Revised Code. 61278
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(M) "Taxpayer" means any person liable for the tax imposed by section 5743.51, 5743.62, or 5743.63 of the Revised Code. 61284
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(N) "Seller" means any person located outside this state engaged in the business of selling tobacco products to consumers for storage, use, or other consumption in this state. 61286
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(O) "Manufacturer" means any person who manufactures and sells cigarettes or tobacco products. 61289
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(P) "Importer" means any person that imports finished cigarettes into the United States, either directly or indirectly. 61291
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(Q) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or any other person doing business as a distributor or retailer of cigarettes on the Indian country of such a tribe within this state. 61293
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(R) "Indian country" has the same meaning as in 18 U.S.C. 1151. 61297
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Sec. 5743.02. To provide revenues for the general revenue fund, an excise tax on sales of cigarettes is hereby levied at the 61299
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rate of ~~twenty seven and one half~~ fifty mills on each cigarette. 61301

Only one sale of the same article shall be used in computing 61302
the amount of tax due. 61303

The treasurer of state shall place to the credit of the tax 61304
refund fund created by section 5703.052 of the Revised Code, out 61305
of receipts from the tax levied by this section, amounts equal to 61306
the refunds certified by the tax commissioner pursuant to section 61307
5743.05 of the Revised Code. The balance of taxes collected under 61308
such section, after the credits to the tax refund fund, shall be 61309
paid into the general revenue fund. 61310

Sec. 5743.021. (A)(1) Cigarettes sold to or received by 61311
members of a federally recognized Indian tribe on the tribe's 61312
Indian country are not subject to the taxes imposed under section 61313
5743.02, 5743.024, or 5743.026 of the Revised Code. 61314

(2) Cigarettes sold to the United States government or to any 61315
instrumentality thereof are not subject to the taxes imposed under 61316
section 5743.02, 5743.024, or 5743.026 of the Revised Code. 61317

(3) Cigarettes sold into foreign commerce or for use or 61318
consumption on ships regularly engaged in foreign commerce or 61319
interstate shipping are not subject to the taxes imposed under 61320
section 5743.02, 5743.024, or 5743.026 of the Revised Code. 61321

(B) The rate of tax on cigarettes sold to or received by 61322
nontribal members within Indian country shall equal the sum of the 61323
rates under section 5743.02 and, if applicable, section 5743.024 61324
or 5743.026 of the Revised Code, less than any tribal tax rate, 61325
provided that the resulting rate shall not be less than zero cents 61326
per cigarette. Cigarettes sold or distributed to nontribal members 61327
shall bear a tax stamp as required by section 5743.03 of the 61328
Revised Code, but the tax commissioner periodically shall rebate 61329
to any Indian tribal entity that complies with this chapter an 61330

amount equal to the lesser of the tribal tax imposed on such sale 61331
or receipt of cigarettes or the face value of the tax stamps 61332
affixed to such cigarettes. 61333

(C) The tax commissioner shall prescribe rules governing the 61334
percentages of cigarette packages offered for sale by an Indian 61335
tribal entity that require tax stamps and tax-exempt stamps under 61336
section 5743.03 of the Revised Code. The percentages shall be 61337
based on the anticipated percentages of sales of cigarettes within 61338
the Indian country that are to be made to persons other than 61339
tribal members. 61340

Sec. 5743.03. (A) Except as provided in section 5743.04 of 61341
the Revised Code, the taxes imposed under sections 5743.02, 61342
5743.024, and 5743.026 of the Revised Code shall be paid by the 61343
purchase of stamps. A stamp shall be affixed to each package of 61344
cigarettes subject to taxes imposed under section 5743.02 and 61345
section 5743.024 or 5743.026 of the Revised Code and not intended 61346
for sale or distribution to consumers the sale or distribution to 61347
which is exempted from such taxes under division (A) of section 61348
5743.021 of the Revised Code. The stamp shall be in an aggregate 61349
denomination not less than the amount of the tax upon the contents 61350
thereof. In the case of cigarettes subject to division (B) of 61351
section 5743.021 of the Revised Code, the stamp shall be in an 61352
aggregate denomination not less than the amount of tax imposed 61353
under those sections without regard to the reduction for any 61354
Indian tribal tax under that division. The stamp, so affixed, 61355
shall be prima-facie evidence of payment of the tax. ~~Except~~ No tax 61356
stamp shall be applied to any package of cigarettes exempted from 61357
taxation under 26 U.S.C. 5701 that is distributed by a 61358
manufacturer pursuant to federal regulations. 61359

If cigarettes are intended for sale to consumers the sale to 61360
which is exempt from taxes under division (A) of section 5743.021 61361

of the Revised Code, a tax-exempt stamp shall be affixed to the 61362
package. A tax-exempt stamp, so affixed, is prima-facie evidence 61363
of the exemption from the taxes imposed under section 5743.02 and 61364
section 5743.024 or 5743.026 of the Revised Code. The tax 61365
commissioner shall provide such tax-exempt stamps without charge. 61366

Except as is provided in the rules prescribed by the tax 61367
commissioner under authority of sections 5743.01 to 5743.20 of the 61368
Revised Code, and unless ~~such~~ tax stamps or tax-exempt stamps have 61369
been previously affixed, they shall be so affixed by each 61370
wholesale dealer, and canceled by writing or stamping across the 61371
face thereof the number assigned to such wholesale dealer by the 61372
tax commissioner for that purpose, prior to the delivery of any 61373
cigarettes to any person in this state, or in the case of a tax 61374
levied pursuant to section 5743.024 or 5743.026 of the Revised 61375
Code, prior to the delivery of cigarettes to any person in the 61376
county in which the tax is levied. 61377

(B) Except as provided in the rules prescribed by the 61378
commissioner under authority of sections 5743.01 to 5743.20 of the 61379
Revised Code, ~~and unless such stamps have been previously affixed,~~ 61380
each retail dealer ~~shall,~~ within twenty-four hours after the 61381
receipt of any cigarettes at the retail dealer's place of business 61382
~~and prior to the delivery thereof,~~ shall inspect the cigarettes to 61383
ensure that tax stamps are affixed and canceled. The inspection 61384
shall be completed before the cigarettes are delivered to any 61385
person in this state, or, in the case of a tax levied pursuant to 61386
section 5743.024 or 5743.026 of the Revised Code ~~prior to the~~ 61387
~~delivery thereof,~~ before the cigarettes are delivered to any 61388
person in the county in which the tax is levied, ~~so affix such~~ 61389
~~stamps and cancel same by writing or stamping across the face~~ 61390
~~thereof the number assigned to such retail dealer by the~~ 61391
~~commissioner for that purpose.~~ 61392

(C) Whenever any cigarettes are found in the place of 61393

business of any retail dealer without proper tax stamps affixed 61394
thereto and canceled, it is presumed that such cigarettes are kept 61395
therein in violation of sections 5743.01 to 5743.20 of the Revised 61396
Code. 61397

(D) Each wholesale dealer ~~and each retail dealer~~ who 61398
purchases cigarettes without proper tax stamps affixed thereto 61399
shall, on or before the thirty-first day of the month following 61400
the close of each semiannual period, which period shall end on the 61401
thirtieth day of June and the thirty-first day of December of each 61402
year, make and file a return of the preceding semiannual period, 61403
on such form as is prescribed by the tax commissioner, showing the 61404
dealer's entire purchases and sales of cigarettes and stamps or 61405
impressions for such semiannual period and accurate inventories as 61406
of the beginning and end of each semiannual period of cigarettes, 61407
stamped or unstamped; cigarette tax stamps affixed or unaffixed 61408
and unused meter impressions; and such other information as the 61409
commissioner finds necessary to the proper administration of 61410
sections 5743.01 to 5743.20 of the Revised Code. The commissioner 61411
may extend the time for making and filing returns and may remit 61412
all or any part of amounts of penalties that may become due under 61413
sections 5743.01 to 5743.20 of the Revised Code. The wholesale ~~or~~ 61414
~~retail~~ dealer shall deliver the return together with a remittance 61415
of the tax deficiency reported thereon to the treasurer of state. 61416
The treasurer of state shall stamp or otherwise mark on the return 61417
the date it was received and shall also show thereon by stamp or 61418
otherwise a payment or nonpayment of the deficiency shown by the 61419
return. Thereafter, the treasurer of state shall immediately 61420
transmit all returns filed under this section to the commissioner. 61421

(E) Any wholesale ~~or retail~~ dealer who fails to file a return 61422
under this section and the rules of the commissioner, other than a 61423
report required pursuant to division (F) of this section, may be 61424
required, for each day the dealer so fails, to forfeit and pay 61425

into the state treasury the sum of one dollar as revenue arising 61426
from the tax imposed by sections 5743.01 to 5743.20 of the Revised 61427
Code and such sum may be collected by assessment in the manner 61428
provided in section 5743.081 of the Revised Code. If the 61429
commissioner finds it necessary in order to insure the payment of 61430
the tax imposed by sections 5743.01 to 5743.20 of the Revised 61431
Code, the commissioner may require returns and payments to be made 61432
other than semiannually. The returns shall be signed by the 61433
wholesale ~~or retail~~ dealer or an authorized agent thereof. 61434

(F) Each person required to file a tax return under section 61435
5743.03, 5743.52, or 5743.62 of the Revised Code shall report to 61436
the commissioner the quantity of all cigarettes and roll-your-own 61437
cigarette tobacco sold in Ohio for each brand not covered by the 61438
tobacco master settlement agreement for which the person is liable 61439
for the taxes levied under section 5743.02, 5743.51, or 5743.62 of 61440
the Revised Code. 61441

As used in this division, "tobacco master settlement 61442
agreement" has the same meaning as in section 183.01 of the 61443
Revised Code. 61444

(G) The report required by division (F) of this section shall 61445
be made on a form prescribed by the commissioner and shall be 61446
filed not later than the last day of each month for the previous 61447
month, except that if the commissioner determines that the 61448
quantity reported by a person does not warrant monthly reporting, 61449
the commissioner may authorize reporting at less frequent 61450
intervals. The commissioner may assess a penalty of not more than 61451
two hundred fifty dollars for each month or portion thereof that a 61452
person fails to timely file a required report, and such sum may be 61453
collected by assessment in the manner provided in section 5743.081 61454
of the Revised Code. All money collected under this division shall 61455
be considered as revenue arising from the taxes imposed by 61456
sections 5743.01 to 5743.20 of the Revised Code. 61457

Sec. 5743.031. (A) A wholesale dealer may affix stamps only 61458
to packages of cigarettes that the dealer received directly from a 61459
manufacturer or importer of cigarettes that possesses a valid and 61460
current license under section 5743.15 of the Revised Code, or to 61461
packages of cigarettes that the dealer received from another 61462
wholesale dealer that possesses a valid and current license under 61463
section 5743.15 of the Revised Code, provided that the tax 61464
commissioner has authorized the sale of the cigarettes between 61465
those wholesale dealers and that the wholesale dealer that sells 61466
the cigarettes received them directly from a manufacturer or 61467
importer of cigarettes that possesses a valid and current license 61468
under section 5743.15 of the Revised Code. 61469

(B) Only a wholesale dealer that possesses a valid and 61470
current license under section 5743.15 of the Revised Code may 61471
purchase or obtain tax stamps or tax-exempt stamps. A wholesale 61472
dealer may not sell or provide such stamps to any other wholesale 61473
dealer or any other person. 61474

(C) Any person shipping unstamped packages of cigarettes into 61475
this state to a person other than a wholesale dealer licensed 61476
under section 5743.15 of the Revised Code shall, before such 61477
shipment, file notice of the shipment with the tax commissioner. 61478
Any person that transports unstamped packages of cigarettes into 61479
or within this state shall carry in the vehicle used to convey the 61480
shipment invoices or equivalent documentation of the shipment for 61481
all cigarettes in the shipment. The invoices or other 61482
documentation shall show the true name and address of the 61483
consignor or seller, the true name and address of the consignee or 61484
purchaser, and the quantity, by brand style, of the cigarettes 61485
being transported. This division does not apply to any common or 61486
contract carrier transporting cigarettes through this state to 61487
another location under a proper bill of lading or freight bill 61488

that states the quantity, source, and destination of the
cigarettes.

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Sec. 5743.05. All stamps provided for by section 5743.03 of the Revised Code, when procured by the tax commissioner, shall be immediately delivered to the treasurer of state, who shall execute a receipt therefor showing the number and aggregate face value of each denomination received by the treasurer of state and any other information that the commissioner requires to enforce the collection and distribution of all taxes imposed under section 5743.024 or 5743.026 of the Revised Code, and deliver the receipt to the commissioner. The treasurer of state shall sell the stamps and, on the fifth day of each month, make a report showing all sales made during the preceding month, with the names of purchasers, the number of each denomination, the aggregate face value purchased by each, and any other information as the commissioner requires to enforce the collection and distribution of all taxes imposed under section 5743.024 of the Revised Code, and deliver it to the commissioner. The treasurer of state shall be accountable for all stamps received and unsold. The stamps shall be sold and accounted for at their face value, except the commissioner shall, by rule certified to the treasurer of state, authorize the sale of stamps and meter impressions to wholesale or retail dealers in this state, or to wholesale dealers outside this state, at a discount of not less than one and eight-tenths per cent or more than ten per cent of their face value, as a commission for affixing and canceling the stamps or meter impressions.

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The commissioner, by rule certified to the treasurer of state, shall authorize the delivery of stamps and meter impressions to wholesale ~~and retail~~ dealers in this state and to wholesale dealers outside this state on credit. If such a dealer

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has not been in good credit standing with this state for five 61520
consecutive years preceding the purchase, the tax commissioner 61521
shall require the dealer to file with the commissioner a bond to 61522
the state in the amount and in the form prescribed by the 61523
commissioner, with surety to the satisfaction of the commissioner, 61524
conditioned on payment to the treasurer of state within thirty 61525
days for stamps or meter impressions delivered within that time. 61526
If such a dealer has been in good credit standing with this state 61527
for five consecutive years preceding the purchase, the tax 61528
commissioner shall not require that the dealer file such a bond 61529
but shall require payment for the stamps and meter impressions 61530
within thirty days after purchase of the stamps and meter 61531
impressions. Stamps and meter impressions sold to a dealer not 61532
required to file a bond shall be sold at face value. The maximum 61533
amount that may be sold on credit to a dealer not required to file 61534
a bond shall equal one hundred ten per cent of the dealer's 61535
average monthly purchases over the preceding calendar year. The 61536
maximum amount shall be adjusted to reflect any changes in the tax 61537
rate and may be adjusted, upon application to the tax commissioner 61538
by the dealer, to reflect changes in the business operations of 61539
the dealer. The maximum amount shall be applicable to the period 61540
of July through April. Payment by a dealer not required to file a 61541
bond shall be remitted by electronic funds transfer as prescribed 61542
by section 5743.051 of the Revised Code. If a dealer not required 61543
to file a bond fails to make the payment in full within the 61544
thirty-day period, the treasurer of state shall not thereafter 61545
sell stamps or meter impressions to that dealer until the dealer 61546
pays the outstanding amount, including penalty and interest on 61547
that amount as prescribed in this chapter, and the commissioner 61548
thereafter may require the dealer to file a bond until the dealer 61549
is restored to good standing. The commissioner shall limit 61550
delivery of stamps and meter impressions on credit to the period 61551
running from the first day of July of the fiscal year until the 61552

first day of the following May. Any discount allowed as a 61553
commission for affixing and canceling stamps or meter impressions 61554
shall be allowed with respect to sales of stamps and meter 61555
impressions on credit. 61556

The treasurer of state shall redeem and pay for any 61557
destroyed, unused, or spoiled tax stamps and any unused meter 61558
impressions at their net value, and shall refund to wholesale 61559
dealers the net amount of state and county taxes paid erroneously 61560
or paid on cigarettes that have been sold in interstate or foreign 61561
commerce or that have become unsalable, and the net amount of 61562
county taxes that were paid on cigarettes that have been sold at 61563
retail or for retail sale outside a taxing county. 61564

An application for a refund of tax shall be filed with the 61565
tax commissioner, on the form prescribed by the commissioner for 61566
that purpose, within three years from the date the tax stamps are 61567
destroyed or spoiled, from the date of the erroneous payment, or 61568
from the date that cigarettes on which taxes have been paid have 61569
been sold in interstate or foreign commerce or have become 61570
unsalable. 61571

On the filing of the application, the commissioner shall 61572
determine the amount of refund to which the applicant is entitled, 61573
payable from receipts of the state tax, and, if applicable, 61574
payable from receipts of a county tax. If the amount is less than 61575
that claimed, the commissioner shall certify the amount to the 61576
director of budget and management and treasurer of state for 61577
payment from the tax refund fund created by section 5703.052 of 61578
the Revised Code. If the amount is less than that claimed, the 61579
commissioner shall proceed in accordance with section 5703.70 of 61580
the Revised Code. 61581

If a refund is granted for payment of an illegal or erroneous 61582
assessment issued by the department, the refund shall include 61583
interest on the amount of the refund from the date of the 61584

overpayment. The interest shall be computed at the rate per annum 61585
prescribed by section 5703.47 of the Revised Code. 61586

Sec. 5743.071. Each manufacturer, each importer, each 61587
wholesale dealer, and each retail dealer shall maintain complete 61588
and accurate records of all purchases and sales of cigarettes, and 61589
shall procure and retain all invoices, bills of lading, and other 61590
documents relating to the purchases and sales of cigarettes, 61591
except that no retail dealer shall be required to issue or 61592
maintain invoices relating to ~~his~~ the retail dealer's sales of 61593
cigarettes. The invoices or documents shall be maintained for each 61594
place of business and shall show the name and address of the other 61595
party to the purchase or sale and shall show the quantity, by 61596
brand style, of the cigarettes so sold or purchased. 61597

The records and documents shall be open during business hours 61598
to the inspection of the tax commissioner, and shall be preserved 61599
for a period of three years, unless the commissioner, in writing, 61600
consents to their destruction within that period, or by order 61601
requires that they be kept for a longer period. With the tax 61602
commissioner's consent, a person with multiple places of business 61603
may keep centralized records but shall transmit duplicates of the 61604
invoices or documents to each place of business within seventy-two 61605
hours after the tax commissioner or the tax commissioner's 61606
designee requests access to the records. 61607

Public access to reports submitted by license holders shall 61608
be provided under the procedures prescribed under division (B) of 61609
section 149.43 of the Revised Code. Information regarding 61610
quantities of cigarettes by brand style shall not be made 61611
available to any person other than the tax commissioner or the tax 61612
commissioner's designee, the United States secretary of the 61613
treasury or the secretary's designee, or law enforcement 61614
officials. 61615

Sec. 5743.072. (A) Each manufacturer and each importer 61616
shipping cigarettes into or within this state shall file a monthly 61617
report with the tax commissioner in accordance with rules adopted 61618
by the tax commissioner under Chapter 119. of the Revised Code. 61619

(B) Indian tribal entities engaged in the retail sale or 61620
distribution of cigarettes shall include in the report required 61621
under this section the name and address of each nontribal member 61622
that purchased cigarettes during the reporting period and the 61623
quantity of cigarettes, by brand style, so purchased. 61624

Sec. 5743.08. Whenever the tax commissioner discovers any 61625
cigarettes, subject to the taxes levied under section 5743.02, 61626
5743.024, or 5743.026 of the Revised Code, and upon which the 61627
taxes have not been paid or that are held for sale or distribution 61628
in violation of any other provision of this chapter, the 61629
commissioner may seize and take possession of such cigarettes, 61630
which shall thereupon be forfeited to the state, and the 61631
commissioner ~~may,~~ within a reasonable time thereafter sell, shall 61632
destroy the forfeited cigarettes. ~~From the proceeds of the sale,~~ 61633
~~the tax commissioner shall pay the costs incurred in such~~ 61634
~~proceedings, and any proceeds remaining after the costs are paid~~ 61635
~~shall be considered as revenue arising from the tax; provided that~~ 61636
~~the~~ Such seizure and ~~sale shall not be deemed to~~ destruction does 61637
not relieve any person from the fine or imprisonment provided for 61638
violation of sections 5743.01 to 5743.20 of the Revised Code. ~~The~~ 61639
~~sale shall be made where it is most convenient and economical. The~~ 61640
~~tax commissioner may order the destruction of the forfeited~~ 61641
~~cigarettes if the quantity or quality of the cigarettes is not~~ 61642
~~sufficient to warrant their sale.~~ 61643

Sec. 5743.14. (A) The tax commissioner ~~may inspect any place~~ 61644
~~where cigarettes subject to the tax levied under section 5743.02,~~ 61645

5743.024, or 5743.026 of the Revised Code are sold or stored. 61646

(B) or an agent of the tax commissioner may enter and inspect 61647
the facilities and records of a manufacturer, importer, wholesale 61648
dealer, or retail dealer. Such entrance and inspection requires a 61649
properly issued search warrant if conducted outside the normal 61650
business hours of the manufacturer, importer, wholesale dealer, or 61651
retail dealer, but does not require a search warrant if conducted 61652
during the normal business hours of the manufacturer, importer, 61653
wholesale dealer, or retail dealer. No person shall prevent or 61654
hinder the tax commissioner or an agent of the tax commissioner 61655
from making a full inspection of any place where cigarettes 61656
subject to the tax levied under section 5743.02, 5743.024, or 61657
5743.026 of the Revised Code are sold or stored, or prevent or 61658
hinder the full inspection of invoices, books, records, or papers 61659
required to be kept by sections 5743.01 to 5743.20 of the Revised 61660
Code carrying out the authority granted under this division. 61661

(B) If the tax commissioner, an agent of the tax 61662
commissioner, or a law enforcement officer as defined in section 61663
2901.01 of the Revised Code knows or has reasonable cause to 61664
believe that a motor vehicle is transporting cigarettes in 61665
violation of this chapter, the tax commissioner, agent, or law 61666
enforcement officer may stop the vehicle and inspect the vehicle 61667
to determine the presence of such cigarettes. 61668

Sec. 5743.15. (A) No person shall engage in this state in the 61669
wholesale or retail business of trafficking in cigarettes ~~within~~ 61670
~~this state~~ or in the business of a manufacturer or importer of 61671
cigarettes without having a license to ~~do so~~ conduct each such 61672
activity, except that on dissolution of a partnership by death, 61673
the surviving partner may operate under the license of the 61674
partnership until expiration of the license, and the heirs or 61675
legal representatives of deceased persons, and receivers and 61676

trustees in bankruptcy appointed by any competent authority, may 61677
operate under the license of the person succeeded in possession by 61678
such heir, representative, receiver, or trustee in bankruptcy. 61679

Each applicant for a license under this section, annually, on 61680
or before the fourth Monday of May, shall make and deliver to the 61681
county auditor of the county in which ~~he~~ the applicant desires to 61682
engage in the wholesale or retail business of trafficking in 61683
cigarettes or in the business of a manufacturer or importer of 61684
cigarettes, upon a blank furnished by such auditor for that 61685
purpose, a statement showing the name of the applicant, each place 61686
in the county where the applicant's business is conducted, the 61687
nature of the business, and any other information the tax 61688
commissioner requires in the form of statement prescribed by ~~him~~ 61689
the commissioner. If the applicant is a firm, partnership, or 61690
association other than a corporation, the application shall state 61691
the name and address of each of its members. If the applicant is a 61692
corporation, the application shall state the name and address of 61693
each of its officers. At the time of making the application 61694
required by this section, every person desiring to engage in the 61695
wholesale business of trafficking in cigarettes shall pay into the 61696
county treasury a license tax in the sum of two hundred dollars, 61697
or if desiring to engage in the retail business of trafficking in 61698
cigarettes, a license tax in the sum of thirty dollars for each of 61699
the first five places where ~~he~~ the person proposes to carry on 61700
such business and twenty-five dollars for each additional place. 61701
Each place of business shall be deemed such space, under lease or 61702
license to, or under the control of, or under the supervision of 61703
the applicant, as is contained in one or more contiguous, 61704
adjacent, or adjoining buildings constituting an industrial plant 61705
or a place of business operated by, or under the control of, one 61706
person, or under one roof and connected by doors, halls, 61707
stairways, or elevators, which space may contain any number of 61708
points at which cigarettes are offered for sale, provided that 61709

each additional point at which cigarettes are offered for sale 61710
shall be listed in the application. 61711

Upon receipt of the application required by this section and 61712
exhibition of the county treasurer's receipt showing the payment 61713
of the tax, the county auditor shall issue to the applicant a 61714
license for each place of business designated in the application, 61715
authorizing the applicant to engage in such business at such place 61716
for one year commencing on the fourth Monday of May. Companies 61717
operating club or dining cars or other cars upon which cigarettes 61718
are sold shall obtain licenses at railroad terminals within the 61719
state, under such rules as are prescribed by the commissioner. The 61720
form of the license shall be prescribed by the commissioner. A 61721
duplicate license may be obtained from the county auditor upon 61722
payment of a fifty cent fee if the original license is lost, 61723
destroyed, or defaced. When an application is filed after the 61724
fourth Monday of May, the license tax required to be paid shall be 61725
proportioned in amount to the remainder of the license year, 61726
except that it shall not be less than one fifth of the whole 61727
amount in any one year. 61728

The holder of a wholesale or retail dealer's cigarette 61729
license may transfer the license to a place of business within the 61730
same county other than that designated on the license or may 61731
assign the license to another person for use in the same county on 61732
condition that the licensee or assignee, whichever is applicable, 61733
make application to the county auditor therefor, upon forms 61734
approved by the commissioner and the payment of a fee of one 61735
dollar into the county treasury. 61736

(B)(1) The wholesale cigarette license tax revenue collected 61737
under this section shall be distributed as follows: 61738

(a) Thirty-seven and one-half per cent shall be paid upon the 61739
warrant of the county auditor into the treasury of the municipal 61740
corporation or township in which the place of business for which 61741

the tax revenue was received is located; 61742

(b) Fifteen per cent shall be credited to the general fund of 61743
the county; 61744

(c) Forty-seven and one-half per cent shall be paid into the 61745
cigarette tax enforcement fund created by division (C) of this 61746
section. 61747

(2) The revenue collected from the thirty dollar tax imposed 61748
upon the first five places of business of a person engaged in the 61749
retail business of trafficking in cigarettes shall be distributed 61750
as follows: 61751

(a) Sixty-two and one-half per cent shall be paid upon the 61752
warrant of the county auditor into the treasury of the municipal 61753
corporation or township in which the places of business for which 61754
the tax revenue was received are located; 61755

(b) Twenty-two and one-half per cent shall be credited to the 61756
general fund of the county; 61757

(c) Fifteen per cent shall be paid into the cigarette tax 61758
enforcement fund created by division (C) of this section. 61759

(3) The remainder of the revenues and fines collected under 61760
this section and the penal laws relating to cigarettes shall be 61761
distributed as follows: 61762

(a) Three-fourths shall be paid upon the warrant of the 61763
county auditor into the treasury of the municipal corporation or 61764
township in which the place of business, on account of which the 61765
revenues and fines were received, is located; 61766

(b) One-fourth shall be credited to the general fund of the 61767
county. 61768

(C) There is hereby created within the state treasury the 61769
cigarette tax enforcement fund for the purpose of providing funds 61770
to assist in paying the costs of enforcing sections 1333.11 to 61771

1333.21 and Chapter 5743. of the Revised Code.

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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.

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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.

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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.

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Sec. 5743.19. No person shall engage in business as a manufacturer or importer, or in the wholesale or retail business

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of trafficking in cigarettes, without having a license therefor, 61802
as required by section 5743.15 of the Revised Code. 61803

Sec. 5743.20. No person shall sell any cigarettes both as a 61804
retail dealer and as a wholesale dealer at the same place of 61805
business. ~~No wholesale dealer shall sell cigarettes to any person~~ 61806
~~in this state other than to a licensed retail dealer; and no~~ No 61807
person other than a licensed wholesale dealer shall sell 61808
cigarettes to a licensed retail dealer. No retail dealer shall 61809
purchase cigarettes from any person other than a licensed 61810
wholesale dealer. 61811

A licensed wholesale dealer may not sell cigarettes to any 61812
person in this state other than a licensed retail dealer, except a 61813
licensed wholesale dealer may sell cigarettes to another licensed 61814
wholesale dealer if the tax commissioner has authorized the sale 61815
of the cigarettes between those wholesale dealers and the 61816
wholesale dealer that sells the cigarettes received them directly 61817
from a licensed manufacturer or licensed importer. 61818

The tax commissioner shall adopt rules governing sales of 61819
cigarettes between licensed wholesale dealers, including rules 61820
establishing criteria for authorizing such sales. 61821

No manufacturer or importer shall sell cigarettes to any 61822
person in this state other than to a licensed wholesale dealer or 61823
licensed importer. No importer shall purchase cigarettes from any 61824
person other than a licensed manufacturer or licensed importer. 61825

As used in this section, "licensed" means the manufacturer, 61826
importer, wholesale dealer, or retail dealer holds a current and 61827
valid license issued under section 5743.15 of the Revised Code. 61828

Sec. 5743.32. To provide revenue for the general revenue fund 61829
of the state, an excise tax is hereby levied on the use, 61830
consumption, or storage for consumption of cigarettes by consumers 61831

in this state at the rate of ~~twenty seven and one half~~ fifty mills 61832
on each cigarette. The tax shall not apply if the tax levied by 61833
section 5743.02 of the Revised Code has been paid. 61834

The money received into the state treasury from the excise 61835
tax levied by this section shall be credited to the general 61836
revenue fund. 61837

Sec. 5743.33. ~~Every~~ Except as provided in section 5743.331 of 61838
the Revised Code, every person who has acquired cigarettes for 61839
use, storage, or other consumption subject to the tax levied under 61840
section 5743.32, 5743.323, or 5743.324 of the Revised Code, shall, 61841
on or before the fifteenth day of the month following receipt of 61842
such cigarettes, file with the tax commissioner a return showing 61843
the amount of cigarettes acquired, together with remittance of the 61844
tax thereon. No such person shall transport within this state, 61845
cigarettes that have a wholesale value in excess of ~~sixty three~~ 61846
hundred dollars, unless that person has obtained consent to 61847
transport the cigarettes from the department of taxation prior to 61848
such transportation. Such consent shall not be required if the 61849
applicable taxes levied under sections 5743.02, 5743.024, and 61850
5743.026 of the Revised Code have been paid. Application for the 61851
consent shall be in the form prescribed by the tax commissioner. 61852

Every person transporting such cigarettes shall possess the 61853
consent while transporting or possessing the cigarettes within 61854
this state and shall produce the consent upon request of any law 61855
enforcement officer or authorized agent of the tax commissioner. 61856

Any person transporting such cigarettes without the consent 61857
required by this section, shall be subject to the provisions of 61858
this chapter, including the applicable taxes imposed by sections 61859
5743.02, 5743.024, and 5743.026 of the Revised Code. 61860

Sec. 5743.331. Notwithstanding any other section in this 61861

chapter to the contrary, a person may use, store, or consume 61862
cigarettes with a wholesale value of not more than three hundred 61863
dollars in any month and not for resale without incurring 61864
liability for any tax levied under this chapter, and is not 61865
required to file any return that otherwise would be required under 61866
this chapter. 61867

Sec. 5743.51. (A) To provide revenue for the general revenue 61868
fund of the state, an excise tax on tobacco products is hereby 61869
levied at the rate of ~~seventeen~~ thirty per cent of the wholesale 61870
price of the tobacco product received by a distributor or sold by 61871
a manufacturer to a retail dealer located in this state. Each 61872
distributor who brings tobacco products, or causes tobacco 61873
products to be brought, into this state for distribution within 61874
this state, or any out-of-state distributor who sells tobacco 61875
products to wholesale or retail dealers located in this state for 61876
resale by those wholesale or retail dealers is liable for the tax 61877
imposed by this section. Only one sale of the same article shall 61878
be used in computing the amount of the tax due. 61879

(B) The treasurer of state shall place to the credit of the 61880
tax refund fund created by section 5703.052 of the Revised Code, 61881
out of the receipts from the tax levied by this section, amounts 61882
equal to the refunds certified by the tax commissioner pursuant to 61883
section 5743.53 of the Revised Code. The balance of the taxes 61884
collected under this section shall be paid into the general 61885
revenue fund. 61886

(C) The commissioner may adopt rules as are necessary to 61887
assist in the enforcement and administration of sections 5743.51 61888
to 5743.66 of the Revised Code, including rules providing for the 61889
remission of penalties imposed. 61890

(D) A manufacturer is not liable for payment of the tax 61891

imposed by this section for sales of tobacco products to a retail dealer that has filed a signed statement with the manufacturer in which the retail dealer agrees to pay and be liable for the tax, as long as the manufacturer has provided a copy of the statement to the tax commissioner.

Sec. 5743.62. (A) To provide revenue for the general revenue fund of the state, an excise tax is hereby levied on the seller of tobacco products in this state at the rate of ~~seventeen~~ thirty per cent of the wholesale price of the tobacco product whenever the tobacco product is delivered to a consumer in this state for the storage, use, or other consumption of such tobacco products. The tax imposed by this section applies only to sellers having nexus in this state, as defined in section 5741.01 of the Revised Code.

(B) A seller of tobacco products who has nexus in this state as defined in section 5741.01 of the Revised Code shall register with the tax commissioner and supply any information concerning the seller's contacts with this state as may be required by the tax commissioner. A seller who does not have nexus in this state may voluntarily register with the tax commissioner. A seller who voluntarily registers with the tax commissioner is entitled to the same benefits and is subject to the same duties and requirements as a seller required to be registered with the tax commissioner under this division.

(C) Each seller of tobacco products 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. If the return is filed and
the amount of the tax shown on the return to be due is paid on or
before the date the return is required to be filed, the seller is
entitled to a discount equal to two and five-tenths per cent of
the amount shown on the return to be due.

(D) 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.

(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.

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.

(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.

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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.

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Sec. 5743.71. As used in sections 5743.71 to 5743.76 of the Revised Code:

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(A) "Cigarettes" has the same meaning as in section 5743.01 of the Revised Code.

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(B) "Computer network" means the interconnection of communication lines or wireless telecommunications with a computer or wireless telecommunication device through remote terminals, a complex consisting of two or more interconnected computers, or a worldwide collection of interconnected networks operating as the internet.

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(C) "Delivery sale" means a transaction for the purchase of cigarettes in which an offer to purchase cigarettes is made electronically using a computer network or by mail and acceptance of the offer results in delivery of the cigarettes to a named individual at a designated address.

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(D) "Merchant" means a person that engages in selling cigarettes by delivery sale.

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Sec. 5743.72. A merchant shall not mail or ship cigarettes as part of a delivery sale to a customer to whom the merchant has not previously mailed or shipped cigarettes unless, before mailing or shipping the cigarettes, the merchant complies with divisions (A), (B), (C), and (D) of this section. A merchant shall not mail or ship cigarettes as part of a delivery sale to a customer to whom the merchant has previously mailed or shipped cigarettes, unless,

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before mailing or shipping the cigarettes, the merchant complies 61983
with divisions (C) and (D) of this section. A merchant that is 61984
mailing or shipping cigarettes as part of a delivery sale to a 61985
customer to whom the merchant has previously mailed or shipped 61986
cigarettes shall, prior to mailing or shipping the cigarettes, 61987
make a good faith effort to verify through its business records 61988
that the information required under division (B) of this section 61989
remains valid with respect to that customer. 61990

(A) The merchant shall provide to the prospective customer a 61991
written statement that: 61992

(1) The prospective customer signs and returns to the 61993
merchant; 61994

(2) When returned by the prospective customer, shows the 61995
prospective customer's name, address, and date of birth; 61996

(3) Advises the prospective customer that purchasing 61997
cigarettes by a person under eighteen years of age is punishable 61998
by a fine of not more than one hundred dollars, that signing 61999
another person's name to the statement may subject the person to a 62000
penalty of not more than one thousand dollars, and that providing 62001
false information on the statement is a misdemeanor of the first 62002
degree, punishable by a fine up to one thousand dollars and 62003
imprisonment up to six months; 62004

(4) Confirms that the order was placed by the prospective 62005
customer; 62006

(5) Includes the warning provided under 15 U.S.C. 1333(a)(1); 62007

(6) States that the sale of the cigarettes is taxable under 62008
Chapter 5743. of the Revised Code. 62009

(B) The merchant shall make a good faith effort to verify the 62010
information in the written statement obtained under division (A) 62011
of this section by using a federal or commercially available 62012

database that includes the date of birth or age of the individual 62013
placing the order. If the prospective customer's age cannot be 62014
verified using such a database, the prospective customer shall 62015
submit a photocopy or other image of a valid government-issued 62016
identification that includes the date of birth or age of the 62017
customer. For the purposes of this division, a valid 62018
government-issued identification includes a driver's license, 62019
state identification card, military identification, passport, 62020
official naturalization or immigration document, or voter 62021
registration card. 62022

(C) The merchant shall receive payment for the delivery sale 62023
only by a check, credit card, or debit card issued in the name of 62024
the prospective purchaser. 62025

(D) The merchant shall submit, to each credit or debit card 62026
acquiring company with whom the merchant has credit or debit card 62027
sales, information in an appropriate form so that the word 62028
"cigarettes" will be printed on the purchaser's credit or debit 62029
card statement when cigarettes are purchased using a credit or 62030
debit card. 62031

Sec. 5743.73. (A)(1) A merchant that mails or ships 62032
cigarettes as part of a delivery sale shall do one of the 62033
following: 62034

(a) Collect and remit all applicable taxes imposed under 62035
Chapter 5743. of the Revised Code; or 62036

(b) Place a legible and conspicuous notice on the outside of 62037
the container in which the cigarettes are mailed or shipped, on 62038
the same side of the container as the address to which the 62039
container is being mailed or shipped, stating the following: "If 62040
these cigarettes have been shipped to you from a merchant located 62041
outside the state in which you reside, the merchant, pursuant to 62042

federal law, has reported information about the sale of these 62043
cigarettes, including your name and address, to your state tax 62044
collection agency. You are legally responsible for all applicable 62045
unpaid state taxes on these cigarettes." 62046

(2) In addition to complying with division (A)(1)(a) or (b) 62047
of this section, a merchant that mails or ships cigarettes as part 62048
of a delivery sale shall inform the customer in writing of the 62049
amount of taxes imposed under Chapter 5743. of the Revised Code. 62050

(B)(1) If a merchant mails or ships cigarettes as part of a 62051
delivery sale without engaging a third party mailing or shipping 62052
service to deliver the cigarettes, the merchant shall require the 62053
customer, or a person at least eighteen years of age who is 62054
designated by the customer, to sign to accept delivery and, if the 62055
customer or the customer's designee appears to be under 62056
twenty-seven years of age in the opinion of the merchant or the 62057
merchant's employee making the delivery, to present a valid 62058
driver's license or identification card issued under Chapter 4507. 62059
of the Revised Code. 62060

(2) If a merchant mails or ships cigarettes as part of a 62061
delivery sale and engages a third party mailing or shipping 62062
service to deliver the cigarettes, the merchant shall do all of 62063
the following: 62064

(a) Engage a mailing or shipping service that complies with 62065
division (C) of this section; 62066

(b) Provide to the mailing or shipping service evidence of 62067
the merchant's compliance with division (A) of this section; 62068

(c) Include the following statement in boldface type or upper 62069
case letters on the invoice or shipping document: "OHIO LAW 62070
PROHIBITS THE MAILING OR SHIPPING OF CIGARETTES TO A PERSON LESS 62071
THAN EIGHTEEN YEARS OF AGE AND REQUIRES PAYMENT OF ALL APPLICABLE 62072
TAXES." 62073

(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.

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.

(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:

(1) The name and address of the person to whom the cigarettes were delivered;

(2) The brand name of the cigarettes delivered;

(3) The quantity of cigarettes delivered.

(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.

Sec. 5743.75. (A)(1) The tax commissioner may impose a 62103
penalty of not more than one thousand dollars on a merchant that 62104
fails to obtain a signature and proof of identification of a 62105
customer or the customer's designee as required under division 62106
(B)(1) of section 5743.73 of the Revised Code, or that mails or 62107
ships cigarettes to a person under eighteen years of age. 62108

(2) The tax commissioner may impose penalties, as follows, on 62109
a merchant that mails or ships cigarettes as part of a delivery 62110
sale without first complying with division (A) of section 5743.73 62111
of the Revised Code: 62112

(a) For a violation occurring more than five years after any 62113
previous violation, a penalty of not more than one thousand 62114
dollars; 62115

(b) For a second violation within a five-year period, a 62116
penalty of not less than one thousand dollars and not more than 62117
two thousand dollars; 62118

(c) For a third violation within a five-year period, a 62119
penalty of not less than two thousand five hundred dollars and not 62120
more than three thousand five hundred dollars; 62121

(d) For a fourth violation within a five-year period, a 62122
penalty of not less than four thousand dollars and not more than 62123
five thousand dollars; 62124

(e) For a fifth violation within a five-year period, a 62125
penalty of not less than five thousand five hundred dollars and 62126
not more than six thousand five hundred dollars; 62127

(f) For six or more violations within a five-year period, a 62128
penalty of ten thousand dollars. 62129

(3) The tax commissioner may impose a penalty of not more 62130
than one thousand dollars on a mailing or shipping service that is 62131
engaged by a merchant to deliver cigarettes as part of a delivery 62132

sale and that does either of the following: 62133

(a) Delivers such cigarettes and fails, before such delivery, 62134
to receive from a merchant evidence of the merchant's compliance 62135
with division (A) of section 5743.73 of the Revised Code; or 62136

(b) Delivers such cigarettes and fails to obtain a signature 62137
and proof of identification of a customer or the customer's 62138
designee as required under division (C) of section 5743.73 of the 62139
Revised Code. 62140

(4) The tax commissioner may impose a penalty of not more 62141
than one thousand dollars on any person who receives cigarettes as 62142
part of a delivery sale and who signs another person's name to the 62143
statement required under division (A) of section 5743.72 of the 62144
Revised Code. 62145

(B) Penalties imposed under this section shall be collected 62146
by assessment issued by the tax commissioner in the same manner 62147
provided for issuing assessments under section 5743.081 or 62148
5743.082 of the Revised Code. The provisions of those sections 62149
relating to issuing assessments, providing notice of assessments, 62150
appealing assessments, the effect of assessments before and after 62151
the hearing and before and after the assessment is filed with the 62152
clerk of the court of common pleas, and all other provisions 62153
relating to procedure, authority, duties, liabilities, and 62154
privileges of the tax commissioner, the person assessed, the clerk 62155
of courts, or other public official apply to assessments for the 62156
collection of penalties imposed under this section. 62157

(C) The proceeds of all penalties collected under this 62158
section shall be credited to the cigarette tax enforcement fund 62159
created under section 5743.15 of the Revised Code. 62160

Sec. 5743.76. The tax commissioner may seize cigarettes sold 62161
in violation of section 5743.72, 5743.73, or 5743.74 of the 62162

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.

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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 as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

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As used in this chapter:

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(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

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(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

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(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

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(3) Deduct interest or dividends 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 included in federal adjusted

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gross income but exempt from state income taxes under the laws of the United States. 62193
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(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income. 62195
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(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code. 62197
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(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002 ~~or after 2004~~, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002, ~~2003~~, or 2004 thereafter. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period. 62201
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(7) 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 adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition ~~credits~~ units purchased pursuant to Chapter 3334. of the Revised Code.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this

section, "subsidized health plan" means a health plan for which 62255
the employer pays any portion of the plan's cost. The deduction 62256
allowed under division (A)(11)(a) of this section shall be the net 62257
of any related premium refunds, related premium reimbursements, or 62258
related insurance premium dividends received during the taxable 62259
year. 62260

(b) Deduct, to the extent not otherwise deducted or excluded 62261
in computing federal or Ohio adjusted gross income during the 62262
taxable year, the amount the taxpayer paid during the taxable 62263
year, not compensated for by any insurance or otherwise, for 62264
medical care of the taxpayer, the taxpayer's spouse, and 62265
dependents, to the extent the expenses exceed seven and one-half 62266
per cent of the taxpayer's federal adjusted gross income. 62267

(c) For purposes of division (A)(11) of this section, 62268
"medical care" has the meaning given in section 213 of the 62269
Internal Revenue Code, subject to the special rules, limitations, 62270
and exclusions set forth therein, and "qualified long-term care" 62271
has the same meaning given in section 7702(B)(b) of the Internal 62272
Revenue Code. 62273

(12)(a) Deduct any amount included in federal adjusted gross 62274
income solely because the amount represents a reimbursement or 62275
refund of expenses that in any year the taxpayer had deducted as 62276
an itemized deduction pursuant to section 63 of the Internal 62277
Revenue Code and applicable United States department of the 62278
treasury regulations. The deduction otherwise allowed under 62279
division (A)(12)(a) of this section shall be reduced to the extent 62280
the reimbursement is attributable to an amount the taxpayer 62281
deducted under this section in any taxable year. 62282

(b) Add any amount not otherwise included in Ohio adjusted 62283
gross income for any taxable year to the extent that the amount is 62284
attributable to the recovery during the taxable year of any amount 62285

deducted or excluded in computing federal or Ohio adjusted gross 62286
income in any taxable year. 62287

(13) Deduct any portion of the deduction described in section 62288
1341(a)(2) of the Internal Revenue Code, for repaying previously 62289
reported income received under a claim of right, that meets both 62290
of the following requirements: 62291

(a) It is allowable for repayment of an item that was 62292
included in the taxpayer's adjusted gross income for a prior 62293
taxable year and did not qualify for a credit under division (A) 62294
or (B) of section 5747.05 of the Revised Code for that year; 62295

(b) It does not otherwise reduce the taxpayer's adjusted 62296
gross income for the current or any other taxable year. 62297

(14) Deduct an amount equal to the deposits made to, and net 62298
investment earnings of, a medical savings account during the 62299
taxable year, in accordance with section 3924.66 of the Revised 62300
Code. The deduction allowed by division (A)(14) of this section 62301
does not apply to medical savings account deposits and earnings 62302
otherwise deducted or excluded for the current or any other 62303
taxable year from the taxpayer's federal adjusted gross income. 62304

(15)(a) Add an amount equal to the funds withdrawn from a 62305
medical savings account during the taxable year, and the net 62306
investment earnings on those funds, when the funds withdrawn were 62307
used for any purpose other than to reimburse an account holder 62308
for, or to pay, eligible medical expenses, in accordance with 62309
section 3924.66 of the Revised Code; 62310

(b) Add the amounts distributed from a medical savings 62311
account under division (A)(2) of section 3924.68 of the Revised 62312
Code during the taxable year. 62313

(16) Add any amount claimed as a credit under section 62314
5747.059 of the Revised Code to the extent that such amount 62315

satisfies either of the following: 62316

(a) The amount was deducted or excluded from the computation 62317
of the taxpayer's federal adjusted gross income as required to be 62318
reported for the taxpayer's taxable year under the Internal 62319
Revenue Code; 62320

(b) The amount resulted in a reduction of the taxpayer's 62321
federal adjusted gross income as required to be reported for any 62322
of the taxpayer's taxable years under the Internal Revenue Code. 62323

(17) Deduct the amount contributed by the taxpayer to an 62324
individual development account program established by a county 62325
department of job and family services pursuant to sections 329.11 62326
to 329.14 of the Revised Code for the purpose of matching funds 62327
deposited by program participants. On request of the tax 62328
commissioner, the taxpayer shall provide any information that, in 62329
the tax commissioner's opinion, is necessary to establish the 62330
amount deducted under division (A)(17) of this section. 62331

(18) Beginning in taxable year 2001 but not for any taxable 62332
year beginning after December 31, 2005, if the taxpayer is married 62333
and files a joint return and the combined federal adjusted gross 62334
income of the taxpayer and the taxpayer's spouse for the taxable 62335
year does not exceed one hundred thousand dollars, or if the 62336
taxpayer is single and has a federal adjusted gross income for the 62337
taxable year not exceeding fifty thousand dollars, deduct amounts 62338
paid during the taxable year for qualified tuition and fees paid 62339
to an eligible institution for the taxpayer, the taxpayer's 62340
spouse, or any dependent of the taxpayer, who is a resident of 62341
this state and is enrolled in or attending a program that 62342
culminates in a degree or diploma at an eligible institution. The 62343
deduction may be claimed only to the extent that qualified tuition 62344
and fees are not otherwise deducted or excluded for any taxable 62345
year from federal or Ohio adjusted gross income. The deduction may 62346

not be claimed for educational expenses for which the taxpayer 62347
claims a credit under section 5747.27 of the Revised Code. 62348

(19) Add any reimbursement received during the taxable year 62349
of any amount the taxpayer deducted under division (A)(18) of this 62350
section in any previous taxable year to the extent the amount is 62351
not otherwise included in Ohio adjusted gross income. 62352

(20)(a)(i) Add five-sixths of the amount of depreciation 62353
expense allowed by subsection (k) of section 168 of the Internal 62354
Revenue Code, including the taxpayer's proportionate or 62355
distributive share of the amount of depreciation expense allowed 62356
by that subsection to a pass-through entity in which the taxpayer 62357
has a direct or indirect ownership interest. 62358

(ii) Add five-sixths of the amount of qualifying section 179 62359
depreciation expense, including a person's proportionate or 62360
distributive share of the amount of qualifying section 179 62361
depreciation expense allowed to any pass-through entity in which 62362
the person has a direct or indirect ownership. For the purposes of 62363
this division, "qualifying section 179 depreciation expense" means 62364
the difference between (I) the amount of depreciation expense 62365
directly or indirectly allowed to the taxpayer under section 179 62366
of the Internal Revenue Code, and (II) the amount of depreciation 62367
expense directly or indirectly allowed to the taxpayer under 62368
section 179 of the Internal Revenue Code as that section existed 62369
on December 31, 2002. 62370

The tax commissioner, under procedures established by the 62371
commissioner, may waive the add-backs related to a pass-through 62372
entity if the taxpayer owns, directly or indirectly, less than 62373
five per cent of the pass-through entity. 62374

(b) Nothing in division (A)(20) of this section shall be 62375
construed to adjust or modify the adjusted basis of any asset. 62376

(c) To the extent the add-back required under division 62377

(A)(20)(a) of this section is attributable to property generating 62378
nonbusiness income or loss allocated under section 5747.20 of the 62379
Revised Code, the add-back shall be sitused to the same location 62380
as the nonbusiness income or loss generated by the property for 62381
the purpose of determining the credit under division (A) of 62382
section 5747.05 of the Revised Code. Otherwise, the add-back shall 62383
be apportioned, subject to one or more of the four alternative 62384
methods of apportionment enumerated in section 5747.21 of the 62385
Revised Code. 62386

(d) For the purposes of division (A) of this section, net 62387
operating loss carryback and carryforward shall not include 62388
five-sixths of the allowance of any net operating loss deduction 62389
carryback or carryforward to the taxable year to the extent such 62390
loss resulted from depreciation allowed by section 168(k) of the 62391
Internal Revenue Code and by the qualifying section 179 62392
depreciation expense amount. 62393

(21)(a) If the taxpayer was required to add an amount under 62394
division (A)(20)(a) of this section for a taxable year, deduct 62395
one-fifth of the amount so added for each of the five succeeding 62396
taxable years. 62397

(b) If the amount deducted under division (A)(21)(a) of this 62398
section is attributable to an add-back allocated under division 62399
(A)(20)(c) of this section, the amount deducted shall be sitused 62400
to the same location. Otherwise, the add-back shall be apportioned 62401
using the apportionment factors for the taxable year in which the 62402
deduction is taken, subject to one or more of the four alternative 62403
methods of apportionment enumerated in section 5747.21 of the 62404
Revised Code. 62405

(c) No deduction is available under division (A)(21)(a) of 62406
this section with regard to any depreciation allowed by section 62407
168(k) of the Internal Revenue Code and by the qualifying section 62408

179 depreciation expense amount to the extent that such 62409
depreciation resulted in or increased a federal net operating loss 62410
carryback or carryforward to a taxable year to which division 62411
(A)(20)(d) of this section does not apply. 62412

(B) "Business income" means income, including gain or loss, 62413
arising from transactions, activities, and sources in the regular 62414
course of a trade or business and includes income, gain, or loss 62415
from real property, tangible property, and intangible property if 62416
the acquisition, rental, management, and disposition of the 62417
property constitute integral parts of the regular course of a 62418
trade or business operation. "Business income" includes income, 62419
including gain or loss, from a partial or complete liquidation of 62420
a business, including, but not limited to, gain or loss from the 62421
sale or other disposition of goodwill. 62422

(C) "Nonbusiness income" means all income other than business 62423
income and may include, but is not limited to, compensation, rents 62424
and royalties from real or tangible personal property, capital 62425
gains, interest, dividends and distributions, patent or copyright 62426
royalties, or lottery winnings, prizes, and awards. 62427

(D) "Compensation" means any form of remuneration paid to an 62428
employee for personal services. 62429

(E) "Fiduciary" means a guardian, trustee, executor, 62430
administrator, receiver, conservator, or any other person acting 62431
in any fiduciary capacity for any individual, trust, or estate. 62432

(F) "Fiscal year" means an accounting period of twelve months 62433
ending on the last day of any month other than December. 62434

(G) "Individual" means any natural person. 62435

(H) "Internal Revenue Code" means the "Internal Revenue Code 62436
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 62437

(I) "Resident" means any of the following, provided that 62438

division (I)(3) of this section applies only to taxable years of a trust beginning in 2002, ~~2003,~~ or 2004 thereafter:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(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:

(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;

(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;

(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.

(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
under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead
trust, "qualifying beneficiary" has the same meaning as "potential
current beneficiary" as defined in section 1361(e)(2) of the
Internal Revenue Code, and with respect to a charitable lead trust
"qualifying beneficiary" is any current, or future, ~~or contingent~~
beneficiary, but with respect to any trust "qualifying
beneficiary" excludes a person or a governmental entity or
instrumentality to any of which a contribution would qualify for
the charitable deduction under section 170 of the Internal Revenue
Code.

(d) For the purposes of division (I)(3)(a) of this section,
the extent to which a trust consists directly or indirectly, in
whole or in part, of assets, net of any related liabilities, that
were transferred directly or indirectly, in whole or part, to the
trust by any of the sources enumerated in that division shall be
ascertained by multiplying the fair market value of the trust's
assets, net of related liabilities, by the qualifying ratio, which
shall be computed as follows:

(i) The first time the trust receives assets, the numerator

of the qualifying ratio is the fair market value of those assets 62500
at that time, net of any related liabilities, from sources 62501
enumerated in division (I)(3)(a) of this section. The denominator 62502
of the qualifying ratio is the fair market value of all the 62503
trust's assets at that time, net of any related liabilities. 62504

(ii) Each subsequent time the trust receives assets, a 62505
revised qualifying ratio shall be computed. The numerator of the 62506
revised qualifying ratio is the sum of (1) the fair market value 62507
of the trust's assets immediately prior to the subsequent 62508
transfer, net of any related liabilities, multiplied by the 62509
qualifying ratio last computed without regard to the subsequent 62510
transfer, and (2) the fair market value of the subsequently 62511
transferred assets at the time transferred, net of any related 62512
liabilities, from sources enumerated in division (I)(3)(a) of this 62513
section. The denominator of the revised qualifying ratio is the 62514
fair market value of all the trust's assets immediately after the 62515
subsequent transfer, net of any related liabilities. 62516

(iii) Whether a transfer to the trust is by or from any of 62517
the sources enumerated in division (I)(3)(a) of this section shall 62518
be ascertained without regard to the domicile of the trust's 62519
beneficiaries. 62520

(e) For the purposes of division (I)(3)(a)(i) of this 62521
section: 62522

(i) A trust is described in division (I)(3)(e)(i) of this 62523
section if the trust is a testamentary trust and the testator of 62524
that testamentary trust was domiciled in this state at the time of 62525
the testator's death for purposes of the taxes levied under 62526
Chapter 5731. of the Revised Code. 62527

(ii) A trust is described in division (I)(3)(e)(ii) of this 62528
section if the transfer is a qualifying transfer described in any 62529
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 62530

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
decedent was domiciled in this state for the purposes of this
chapter.

(ii) The transfer is made to a trust to which the decedent,
prior to the decedent's death, had directly or indirectly
transferred assets, net of any related liabilities, 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 decedent was domiciled in this state for the
purposes of this chapter.

(iii) The transfer is made on account of a contractual
relationship existing directly or indirectly between the
transferor and either the decedent or the estate of the decedent
at any time prior to the date of the decedent's death, and the
decedent was domiciled in this state at the time of death for
purposes of the taxes levied under Chapter 5731. of the Revised
Code.

(iv) The transfer is made to a trust on account of a
contractual relationship existing directly or indirectly between
the transferor and another person who at the time of the

decedent's death was domiciled in this state for purposes of this chapter. 62562
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(v) The transfer is made to a trust on account of the will of a testator. 62564
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(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death. 62566
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(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state. 62572
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(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year. 62574
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(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code. 62578
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(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required. 62580
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(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter. 62584
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(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code. 62588
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(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, 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: 62622

(a) The net amount is not attributable to the S portion of an 62623
electing small business trust and has not been distributed to 62624
beneficiaries for the taxable year; 62625

(b) The net amount is attributable to the S portion of an 62626
electing small business trust for the taxable year. 62627

(2) Add interest or dividends, net of ordinary, necessary, 62628
and reasonable expenses not deducted in computing federal taxable 62629
income, on obligations of any authority, commission, 62630
instrumentality, territory, or possession of the United States to 62631
the extent that the interest or dividends are exempt from federal 62632
income taxes but not from state income taxes, but only to the 62633
extent that such net amount is not otherwise includible in Ohio 62634
taxable income and is described in either division (S)(1)(a) or 62635
(b) of this section; 62636

(3) Add the amount of personal exemption allowed to the 62637
estate pursuant to section 642(b) of the Internal Revenue Code; 62638

(4) Deduct interest or dividends, net of related expenses 62639
deducted in computing federal taxable income, on obligations of 62640
the United States and its territories and possessions or of any 62641
authority, commission, or instrumentality of the United States to 62642
the extent that the interest or dividends are exempt from state 62643
taxes under the laws of the United States, but only to the extent 62644
that such amount is included in federal taxable income and is 62645
described in either division (S)(1)(a) or (b) of this section; 62646

(5) Deduct the amount of wages and salaries, if any, not 62647
otherwise allowable as a deduction but that would have been 62648
allowable as a deduction in computing federal taxable income for 62649
the taxable year, had the targeted jobs credit allowed under 62650
sections 38, 51, and 52 of the Internal Revenue Code not been in 62651
effect, but only to the extent such amount relates either to 62652

income included in federal taxable income for the taxable year or 62653
to income of the S portion of an electing small business trust for 62654
the taxable year; 62655

(6) Deduct any interest or interest equivalent, net of 62656
related expenses deducted in computing federal taxable income, on 62657
public obligations and purchase obligations, but only to the 62658
extent that such net amount relates either to income included in 62659
federal taxable income for the taxable year or to income of the S 62660
portion of an electing small business trust for the taxable year; 62661

(7) Add any loss or deduct any gain resulting from sale, 62662
exchange, or other disposition of public obligations to the extent 62663
that such loss has been deducted or such gain has been included in 62664
computing either federal taxable income or income of the S portion 62665
of an electing small business trust for the taxable year; 62666

(8) Except in the case of the final return of an estate, add 62667
any amount deducted by the taxpayer on both its Ohio estate tax 62668
return pursuant to section 5731.14 of the Revised Code, and on its 62669
federal income tax return in determining federal taxable income; 62670

(9)(a) Deduct any amount included in federal taxable income 62671
solely because the amount represents a reimbursement or refund of 62672
expenses that in a previous year the decedent had deducted as an 62673
itemized deduction pursuant to section 63 of the Internal Revenue 62674
Code and applicable treasury regulations. The deduction otherwise 62675
allowed under division (S)(9)(a) of this section shall be reduced 62676
to the extent the reimbursement is attributable to an amount the 62677
taxpayer or decedent deducted under this section in any taxable 62678
year. 62679

(b) Add any amount not otherwise included in Ohio taxable 62680
income for any taxable year to the extent that the amount is 62681
attributable to the recovery during the taxable year of any amount 62682
deducted or excluded in computing federal or Ohio taxable income 62683

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)
of the Internal Revenue Code to the extent that amount is not
included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required
to add or deduct under division (A)(20) or (21) of this section if
the taxpayer's Ohio taxable income were computed in the same
manner as an individual's Ohio adjusted gross income is computed
under this section. In the case of a trust, division (S)(14) of
this section applies only to any of the trust's taxable years
beginning in 2002,~~2003~~, or 2004 thereafter.

(T) "School district income" and "school district income tax"
have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7)
of this section, "public obligations," "purchase obligations," and
"interest or interest equivalent" have the same meanings as in
section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability
company formed under Chapter 1705. of the Revised Code or under
the laws of any other state.

(W) "Pass-through entity investor" means any person who, 62745
during any portion of a taxable year of a pass-through entity, is 62746
a partner, member, shareholder, or equity investor in that 62747
pass-through entity. 62748

(X) "Banking day" has the same meaning as in section 1304.01 62749
of the Revised Code. 62750

(Y) "Month" means a calendar month. 62751

(Z) "Quarter" means the first three months, the second three 62752
months, the third three months, or the last three months of the 62753
taxpayer's taxable year. 62754

(AA)(1) "Eligible institution" means a state university or 62755
state institution of higher education as defined in section 62756
3345.011 of the Revised Code, or a private, nonprofit college, 62757
university, or other post-secondary institution located in this 62758
state that possesses a certificate of authorization issued by the 62759
Ohio board of regents pursuant to Chapter 1713. of the Revised 62760
Code or a certificate of registration issued by the state board of 62761
career colleges and schools under Chapter 3332. of the Revised 62762
Code. 62763

(2) "Qualified tuition and fees" means tuition and fees 62764
imposed by an eligible institution as a condition of enrollment or 62765
attendance, not exceeding two thousand five hundred dollars in 62766
each of the individual's first two years of post-secondary 62767
education. If the individual is a part-time student, "qualified 62768
tuition and fees" includes tuition and fees paid for the academic 62769
equivalent of the first two years of post-secondary education 62770
during a maximum of five taxable years, not exceeding a total of 62771
five thousand dollars. "Qualified tuition and fees" does not 62772
include: 62773

(a) Expenses for any course or activity involving sports, 62774
games, or hobbies unless the course or activity is part of the 62775

individual's degree or diploma program;	62776
(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;	62777 62778 62779
(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.	62780 62781 62782
(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.	62783 62784 62785
(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:	62786 62787 62788 62789 62790
(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of 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, is available to the trust.	62791 62792 62793 62794 62795
(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.	62796 62797 62798
Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.	62799 62800 62801
(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the	62802 62803 62804 62805

extent such qualifying investment income is not otherwise part of 62806
modified business income. 62807

(4) "Modified Ohio taxable income" applies only to trusts, 62808
and means the sum of the amounts described in divisions (BB)(4)(a) 62809
to (c) of this section: 62810

(a) The fraction, calculated under section 5747.013, and 62811
applying section 5747.231 of the Revised Code, multiplied by the 62812
sum of the following amounts: 62813

(i) The trust's modified business income; 62814

(ii) The trust's qualifying investment income, as defined in 62815
section 5747.012 of the Revised Code, but only to the extent the 62816
qualifying investment income does not otherwise constitute 62817
modified business income and does not otherwise constitute a 62818
qualifying trust amount. 62819

(b) The qualifying trust amount multiplied by a fraction, the 62820
numerator of which is the sum of the book value of the qualifying 62821
investee's physical assets in this state on the last day of the 62822
qualifying investee's fiscal or calendar year ending immediately 62823
prior to the day on which the trust recognizes the qualifying 62824
trust amount, and the denominator of which is the sum of the book 62825
value of the qualifying investee's total physical assets 62826
everywhere on the last day of the qualifying investee's fiscal or 62827
calendar year ending immediately prior to the day on which the 62828
trust recognizes the qualifying trust amount. If, for a taxable 62829
year, the trust recognizes a qualifying trust amount with respect 62830
to more than one qualifying investee, the amount described in 62831
division (BB)(4)(b) of this section shall equal the sum of the 62832
products so computed for each such qualifying investee. 62833

(c)(i) With respect to a trust or portion of a trust that is 62834
a resident as ascertained in accordance with division (I)(3)(d) of 62835
this section, its modified nonbusiness income. 62836

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(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 62868
the qualifying trust amount, more than fifty per cent of the 62869
equity of a pass-through entity, then the qualifying investee and 62870
the other members are deemed to own the proportionate share of the 62871
pass-through entity's physical assets which the pass-through 62872
entity directly or indirectly owns on the last day of the 62873
pass-through entity's calendar or fiscal year ending within or 62874
with the last day of the qualifying investee's fiscal or calendar 62875
year ending immediately prior to the date on which the trust 62876
recognizes the qualifying trust amount. 62877

(iii) For the purposes of division (BB)(5)(a)(iii) of this 62878
section, "upper level pass-through entity" means a pass-through 62879
entity directly or indirectly owning any equity of another 62880
pass-through entity, and "lower level pass-through entity" means 62881
that other pass-through entity. 62882

An upper level pass-through entity, whether or not it is also 62883
a qualifying investee, is deemed to own, on the last day of the 62884
upper level pass-through entity's calendar or fiscal year, the 62885
proportionate share of the lower level pass-through entity's 62886
physical assets that the lower level pass-through entity directly 62887
or indirectly owns on the last day of the lower level pass-through 62888
entity's calendar or fiscal year ending within or with the last 62889
day of the upper level pass-through entity's fiscal or calendar 62890
year. If the upper level pass-through entity directly and 62891
indirectly owns less than fifty per cent of the equity of the 62892
lower level pass-through entity on each day of the upper level 62893
pass-through entity's calendar or fiscal year in which or with 62894
which ends the calendar or fiscal year of the lower level 62895
pass-through entity and if, based upon clear and convincing 62896
evidence, complete information about the location and cost of the 62897
physical assets of the lower pass-through entity is not available 62898
to the upper level pass-through entity, then solely for purposes 62899

of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the following apply:

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.

(ii) Such gain or loss constitutes nonbusiness income.

(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

~~(EE) Any term used in this chapter that is not otherwise defined in this section and that is not used in a comparable context in the Internal Revenue Code and other statutes of the~~

~~United States relating to federal income taxes has the same~~ 62930
~~meaning as in section 5733.40 of the Revised Code.~~ 62931

Sec. 5747.02. (A) For the purpose of providing revenue for 62932
the support of schools and local government functions, to provide 62933
relief to property taxpayers, to provide revenue for the general 62934
revenue fund, and to meet the expenses of administering the tax 62935
levied by this chapter, there is hereby levied on every 62936
individual, trust, and estate residing in or earning or receiving 62937
income in this state, on every individual, trust, and estate 62938
earning or receiving lottery winnings, prizes, or awards pursuant 62939
to Chapter 3770. of the Revised Code, and on every individual, 62940
trust, and estate otherwise having nexus with or in this state 62941
under the Constitution of the United States, an annual tax 62942
measured in the case of individuals by Ohio adjusted gross income 62943
less an exemption for the taxpayer, the taxpayer's spouse, and 62944
each dependent as provided in section 5747.025 of the Revised 62945
Code; measured in the case of trusts by modified Ohio taxable 62946
income under division (D) of this section; and measured in the 62947
case of estates by Ohio taxable income. The tax imposed by this 62948
section on the balance thus obtained is hereby levied as follows: 62949

(1) For taxable years beginning in 2004: 62950

OHIO ADJUSTED GROSS INCOME LESS 62951
EXEMPTIONS (INDIVIDUALS)
OR 62952
MODIFIED OHIO 62953
TAXABLE INCOME (TRUSTS) 62954
OR 62955
OHIO TAXABLE INCOME (ESTATES) TAX 62956
\$5,000 or less .743% 62957
More than \$5,000 but not more \$37.15 plus 1.486% of the amount 62958
than \$10,000 in excess of \$5,000

More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000	62959
More than \$15,000 but not more than \$20,000	\$260.05 plus 3.715% of the amount in excess of \$15,000	62960
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000	62961
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000	62962
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	62963
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	62964
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	62965
<u>(2) For taxable years beginning in 2005:</u>		62966
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		62967
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		62968
<u>MODIFIED OHIO</u>		62969
<u>TAXABLE INCOME (TRUSTS)</u>		62970
<u>OR</u>		62971
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	62972
<u>\$5,000 or less</u>	<u>.712%</u>	62973
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$35.60 plus 1.424% of the amount in excess of \$5,000</u>	62974
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$106.80 plus 2.847% of the amount in excess of \$10,000</u>	62975
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$249.15 plus 3.559% of the amount in excess of \$15,000</u>	62976
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$427.10 plus 4.27% of the amount in excess of \$20,000</u>	62977
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,281.10 plus 4.983% of the amount in excess of \$40,000</u>	62978

<u>More than \$80,000 but not more than \$100,000</u>	<u>\$3,274.30 plus 5.693% of the amount in excess of \$80,000</u>	62979
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$4,412.90 plus 6.61% of the amount in excess of \$100,000</u>	62980
<u>More than \$200,000</u>	<u>\$11,022.90 plus 7.185% of the amount in excess of \$200,000</u>	62981
<u>(3) For taxable years beginning in 2006:</u>		62982
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		62983
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		62984
<u>MODIFIED OHIO</u>		62985
<u>TAXABLE INCOME (TRUSTS)</u>		62986
<u>OR</u>		62987
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	62988
<u>\$5,000 or less</u>	<u>.681%</u>	62989
<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>	62990
<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>	62991
<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>	62992
<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>	62993
<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>	62994
<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>	62995
<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>	62996
<u>More than \$200,000</u>	<u>\$10,539.35 plus 6.87% of the amount in excess of \$200,000</u>	62997
<u>(4) For taxable years beginning in 2007:</u>		62998

<u>OHIO ADJUSTED GROSS INCOME LESS</u>		62999
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		63000
<u>MODIFIED OHIO</u>		63001
<u>TAXABLE INCOME (TRUSTS)</u>		63002
<u>OR</u>		63003
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	63004
<u>\$5,000 or less</u>	<u>.649%</u>	63005
<u>More than \$5,000 but not more</u>	<u>\$32.45 plus 1.299% of the amount</u>	63006
<u>than \$10,000</u>	<u>in excess of \$5,000</u>	
<u>More than \$10,000 but not more</u>	<u>\$97.40 plus 2.598% of the amount</u>	63007
<u>than \$15,000</u>	<u>in excess of \$10,000</u>	
<u>More than \$15,000 but not more</u>	<u>\$227.30 plus 3.247% of the</u>	63008
<u>than \$20,000</u>	<u>amount in excess of \$15,000</u>	
<u>More than \$20,000 but not more</u>	<u>\$389.65 plus 3.895% of the</u>	63009
<u>than \$40,000</u>	<u>amount in excess of \$20,000</u>	
<u>More than \$40,000 but not more</u>	<u>\$1,168.65 plus 4.546% of the</u>	63010
<u>than \$80,000</u>	<u>amount in excess of \$40,000</u>	
<u>More than \$80,000 but not more</u>	<u>\$2,987.05 plus 5.194% of the</u>	63011
<u>than \$100,000</u>	<u>amount in excess of \$80,000</u>	
<u>More than \$100,000 but not more</u>	<u>\$4,025.85 plus 6.031% of the</u>	63012
<u>than \$200,000</u>	<u>amount in excess of \$100,000</u>	
<u>More than \$200,000</u>	<u>\$10,056.85 plus 6.555% of the</u>	63013
	<u>amount in excess of \$200,000</u>	
<u>(5) For taxable years beginning in 2008:</u>		63014
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		63015
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		63016
<u>MODIFIED OHIO</u>		63017
<u>TAXABLE INCOME (TRUSTS)</u>		63018
<u>OR</u>		63019
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	63020
<u>\$5,000 or less</u>	<u>.618%</u>	63021

<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>	63022
<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>	63023
<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>	63024
<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>	63025
<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>	63026
<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>	63027
<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>	63028
<u>More than \$200,000</u>	<u>\$9,573.30 plus 6.24% of the amount in excess of \$200,000</u>	63029
<u>(6) For taxable years beginning in 2009 or thereafter:</u>		63030
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		63031
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		63032
<u>MODIFIED OHIO</u>		63033
<u>TAXABLE INCOME (TRUSTS)</u>		63034
<u>OR</u>		63035
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	63036
<u>\$5,000 or less</u>	<u>.587%</u>	63037
<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>	63038
<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>	63039
<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>	63040
<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>	63041

<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>	63042
<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>	63043
<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>	63044
<u>More than \$200,000</u>	<u>\$9,090.00 plus 5.925% of the amount in excess of \$200,000</u>	63045

In July of each year, beginning in ~~2005~~ 2010, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made. The tax commissioner shall not make such adjustments in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year.

(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under division (A) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is

made. 63070

(C) The levy of this tax on income does not prevent a 63071
municipal corporation, a joint economic development zone created 63072
under section 715.691, or a joint economic development district 63073
created under section 715.70 or 715.71 or sections 715.72 to 63074
715.81 of the Revised Code from levying a tax on income. 63075

(D) This division applies only to taxable years of a trust 63076
beginning in 2002,~~2003~~, or 2004 thereafter. 63077

(1) The tax imposed by this section on a trust shall be 63078
computed by multiplying the Ohio modified taxable income of the 63079
trust by the rates prescribed by division (A) of this section. 63080

(2) A credit is allowed against the tax computed under 63081
division (D) of this section equal to the lesser of (1) the tax 63082
paid to another state or the District of Columbia on the trust's 63083
modified nonbusiness income, other than the portion of the trust's 63084
nonbusiness income that is qualifying investment income as defined 63085
in section 5747.012 of the Revised Code, or (2) the effective tax 63086
rate, based on modified Ohio taxable income, multiplied by the 63087
trust's modified nonbusiness income other than the portion of 63088
trust's nonbusiness income that is qualifying investment income. 63089
The credit applies before any other applicable credits. 63090

(3) The credits enumerated in divisions (A)(1) to (13) of 63091
section 5747.98 of the Revised Code do not apply to a trust 63092
subject to this division. Any credits enumerated in other 63093
divisions of section 5747.98 of the Revised Code apply to a trust 63094
subject to this division. To the extent that the trust distributes 63095
income for the taxable year for which a credit is available to the 63096
trust, the credit shall be shared by the trust and its 63097
beneficiaries. The tax commissioner and the trust shall be guided 63098
by applicable regulations of the United States treasury regarding 63099
the sharing of credits. 63100

(E) For the purposes of this section, "trust" means any trust 63101
described in Subchapter J of Chapter 1 of the Internal Revenue 63102
Code, excluding trusts that are not irrevocable as defined in 63103
division (I)(3)(b) of section 5747.01 of the Revised Code and that 63104
have no modified Ohio taxable income for the taxable year, 63105
charitable remainder trusts, qualified funeral trusts and preneed 63106
funeral contract trusts established pursuant to section 1111.19 of 63107
the Revised Code that are not qualified funeral trusts, endowment 63108
and perpetual care trusts, qualified settlement trusts and funds, 63109
designated settlement trusts and funds, and trusts exempted from 63110
taxation under section 501(a) of the Internal Revenue Code. 63111

Sec. 5747.05. As used in this section, "income tax" includes 63112
both a tax on net income and a tax measured by net income. 63113

The following credits shall be allowed against the income tax 63114
imposed by section 5747.02 of the Revised Code on individuals and 63115
estates: 63116

(A)(1) The amount of tax otherwise due under section 5747.02 63117
of the Revised Code on such portion of the adjusted gross income 63118
of any nonresident taxpayer that is not allocable to this state 63119
pursuant to sections 5747.20 to 5747.23 of the Revised Code; 63120

(2) The credit provided under this division shall not exceed 63121
the portion of the total tax due under section 5747.02 of the 63122
Revised Code that the amount of the nonresident taxpayer's 63123
adjusted gross income not allocated to this state pursuant to 63124
sections 5747.20 to 5747.23 of the Revised Code bears to the total 63125
adjusted gross income of the nonresident taxpayer derived from all 63126
sources everywhere. 63127

(3) The tax commissioner may enter into an agreement with the 63128
taxing authorities of any state or of the District of Columbia 63129
that imposes an income tax to provide that compensation paid in 63130

this state to a nonresident taxpayer shall not be subject to the 63131
tax levied in section 5747.02 of the Revised Code so long as 63132
compensation paid in such other state or in the District of 63133
Columbia to a resident taxpayer shall likewise not be subject to 63134
the income tax of such other state or of the District of Columbia. 63135

(B) The lesser of division (B)(1) or (2) of this section: 63136

(1) The amount of tax otherwise due under section 5747.02 of 63137
the Revised Code on such portion of the adjusted gross income of a 63138
resident taxpayer that in another state or in the District of 63139
Columbia is subjected to an income tax. The credit provided under 63140
division (B)(1) of this section shall not exceed the portion of 63141
the total tax due under section 5747.02 of the Revised Code that 63142
the amount of the resident taxpayer's adjusted gross income 63143
subjected to an income tax in the other state or in the District 63144
of Columbia bears to the total adjusted gross income of the 63145
resident taxpayer derived from all sources everywhere. 63146

(2) The amount of income tax liability to another state or 63147
the District of Columbia on the portion of the adjusted gross 63148
income of a resident taxpayer that in another state or in the 63149
District of Columbia is subjected to an income tax. The credit 63150
provided under division (B)(2) of this section shall not exceed 63151
the amount of tax otherwise due under section 5747.02 of the 63152
Revised Code. 63153

(3) If the credit provided under division (B) of this section 63154
is affected by a change in either the portion of adjusted gross 63155
income of a resident taxpayer subjected to an income tax in 63156
another state or the District of Columbia or the amount of income 63157
tax liability that has been paid to another state or the District 63158
of Columbia, the taxpayer shall report the change to the tax 63159
commissioner within sixty days of the change in such form as the 63160
commissioner requires. 63161

(a) In the case of an underpayment, the report shall be 63162
accompanied by payment of any additional tax due as a result of 63163
the reduction in credit together with interest on the additional 63164
tax and is a return subject to assessment under section 5747.13 of 63165
the Revised Code solely for the purpose of assessing any 63166
additional tax due under this division, together with any 63167
applicable penalty and interest. It shall not reopen the 63168
computation of the taxpayer's tax liability under this chapter 63169
from a previously filed return no longer subject to assessment 63170
except to the extent that such liability is affected by an 63171
adjustment to the credit allowed by division (B) of this section. 63172

(b) In the case of an overpayment, an application for refund 63173
may be filed under this division within the sixty day period 63174
prescribed for filing the report even if it is beyond the period 63175
prescribed in section 5747.11 of the Revised Code if it otherwise 63176
conforms to the requirements of such section. An application filed 63177
under this division shall only claim refund of overpayments 63178
resulting from an adjustment to the credit allowed by division (B) 63179
of this section unless it is also filed within the time prescribed 63180
in section 5747.11 of the Revised Code. It shall not reopen the 63181
computation of the taxpayer's tax liability except to the extent 63182
that such liability is affected by an adjustment to the credit 63183
allowed by division (B) of this section. 63184

(4) No credit shall be allowed under division (B) of this 63185
section to the extent that for any taxable year the taxpayer has 63186
directly or indirectly deducted, or was required to directly or 63187
indirectly deduct, the amount of income tax liability to another 63188
state or the District of Columbia in computing federal adjusted 63189
gross income. 63190

(C) For a taxpayer sixty-five years of age or older during 63191
the taxable year, a credit for such year equal to fifty dollars 63192
for each return required to be filed under section 5747.08 of the 63193

Revised Code. 63194

(D) A taxpayer sixty-five years of age or older during the 63195
taxable year who has received a lump-sum distribution from a 63196
pension, retirement, or profit-sharing plan in the taxable year 63197
may elect to receive a credit under this division in lieu of the 63198
credit to which the taxpayer is entitled under division (C) of 63199
this section. A taxpayer making such election shall receive a 63200
credit for the taxable year equal to fifty dollars times the 63201
taxpayer's expected remaining life as shown by annuity tables 63202
issued under the provisions of the Internal Revenue Code and in 63203
effect for the calendar year which includes the last day of the 63204
taxable year. A taxpayer making an election under this division is 63205
not entitled to the credit authorized under division (C) of this 63206
section in subsequent taxable years except that if such election 63207
was made prior to July 1, 1983, the taxpayer is entitled to 63208
one-half the credit authorized under such division in subsequent 63209
taxable years but may not make another election under this 63210
division. 63211

(E) A taxpayer who is not sixty-five years of age or older 63212
during the taxable year who has received a lump-sum distribution 63213
from a pension, retirement, or profit-sharing plan in a taxable 63214
year ending on or before July 31, 1991, may elect to take a credit 63215
against the tax otherwise due under this chapter for such year 63216
equal to fifty dollars times the expected remaining life of a 63217
taxpayer sixty-five years of age as shown by annuity tables issued 63218
under the provisions of the Internal Revenue Code and in effect 63219
for the calendar year which includes the last day of the taxable 63220
year. A taxpayer making an election under this division is not 63221
entitled to a credit under division (C) or (D) of this section in 63222
any subsequent year except that if such election was made prior to 63223
July 1, 1983, the taxpayer is entitled to one-half the credit 63224
authorized under division (C) of this section in subsequent years 63225

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.

(2) The credit to which a taxpayer is entitled under this
division in any taxable year is the percentage shown in column B
that corresponds with the taxpayer's adjusted gross income, less
exemptions for the taxable year:

A.	B.	
IF THE ADJUSTED GROSS INCOME, LESS EXEMPTIONS, FOR THE TAX YEAR	THE CREDIT FOR THE TAXABLE YEAR IS:	
IS:		
\$25,000 or less	20%	63246
More than \$25,000 but not more than \$50,000	15%	63247
More than \$50,000 but not more than \$75,000	10%	63248
More than \$75,000	5%	63249

(3) The credit allowed under this division shall not exceed
six hundred fifty dollars in any taxable year.

(H) No claim for credit under this section shall be allowed

unless the claimant furnishes such supporting information as the
tax commissioner prescribes by rules. Each credit under this
section shall be claimed in the order required under section
5747.98 of the Revised Code.

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(I) An individual who is a resident for part of a taxable
year and a nonresident for the remainder of the taxable year is
allowed the credits under divisions (A) and (B) of this section in
accordance with rules prescribed by the tax commissioner. In no
event shall the same income be subject to both credits.

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(J) The credit allowed under division (A) of this section
shall be calculated based upon the amount of tax due under section
5747.02 of the Revised Code after subtracting any other credits
that precede the credit under that division in the order required
under section 5747.98 of the Revised Code. The credit allowed
under division (B) of this section shall be calculated based upon
the amount of tax due under section 5747.02 of the Revised Code
after subtracting any other credits that precede the credit under
that division in the order required under section 5747.98 of the
Revised Code.

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(K) No credit shall be allowed under division (B) of this
section unless the taxpayer furnishes such proof as the tax
commissioner shall require that the income tax liability has been
paid to another state or the District of Columbia.

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(L) No credit shall be allowed under division (B) of this
section for compensation that is not subject to the income tax of
another state or the District of Columbia as the result of an
agreement entered into by the tax commissioner under division
(A)(3) of this section.

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Sec. 5747.056. For taxable years beginning in 2005 or
thereafter, a credit shall be allowed against the tax imposed by

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section 5747.02 of the Revised Code for an individual whose Ohio adjusted gross income less exemptions is ten thousand dollars or less. For taxable years beginning in 2005, the credit shall equal one hundred seven dollars. For taxable years beginning in 2006, the credit shall equal one hundred two dollars. For taxable years beginning in 2007, the credit shall equal ninety-eight dollars. For taxable years beginning in 2008, the credit shall equal ninety-three dollars. For taxable years beginning in 2009 or thereafter, the credit shall equal eighty-eight dollars. The credit shall be claimed in the order required under section 5747.98 of the Revised Code.

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Sec. 5747.08. An annual return with respect to the tax imposed by section 5747.02 of the Revised Code and each tax imposed under Chapter 5748. of the Revised Code shall be made by every taxpayer for any taxable year for which the taxpayer is liable for the tax imposed by that section or under that chapter, unless the total credits allowed under divisions (E), (F), and (G) of section 5747.05 of the Revised Code for the year are equal to or exceed the tax imposed by section 5747.02 of the Revised Code, in which case no return shall be required unless the taxpayer is liable for a tax imposed pursuant to Chapter 5748. of the Revised Code.

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(A) If an individual is deceased, any return or notice required of that individual under this chapter shall be made and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

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(B) If an individual is unable to make a return or notice required by this chapter, the return or notice required of that individual shall be made and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other

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person charged with the care of the person or property of that individual. 63313
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(C) Returns or notices required of an estate or a trust shall be made and filed by the fiduciary of the estate or trust. 63315
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(D)(1)(a) Except as otherwise provided in division (D)(1)(b) of this section, any pass-through entity may file a single return on behalf of one or more of the entity's investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code. The single return shall set forth the name, address, and social security number or other identifying number of each of those pass-through entity investors and shall indicate the distributive share of each of those pass-through entity investor's income taxable in this state in accordance with sections 5747.20 to 5747.231 of the Revised Code. Such pass-through entity investors for whom the pass-through entity elects to file a single return are not entitled to the exemption or credit provided for by sections 5747.02 and 5747.022 of the Revised Code; shall calculate the tax before business credits at the highest rate of tax set forth in section 5747.02 of the Revised Code for the taxable year for which the return is filed; and are entitled to only their distributive share of the business credits as defined in division (D)(2) of this section. A single check drawn by the pass-through entity shall accompany the return in full payment of the tax due, as shown on the single return, for such investors, other than investors who are persons subject to the tax imposed under section 5733.06 of the Revised Code. 63317
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(b)(i) A pass-through entity shall not include in such a single return any investor that is a trust to the extent that any direct or indirect current, future, or contingent beneficiary of the trust is a person subject to the tax imposed under section 5733.06 of the Revised Code. 63339
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(ii) A pass-through entity shall not include in such a single return any investor that is itself a pass-through entity to the extent that any direct or indirect investor in the second pass-through entity is a person subject to the tax imposed under section 5733.06 of the Revised Code.

(c) Nothing in division (D) of this section precludes the tax commissioner from requiring such investors to file the return and make the payment of taxes and related interest, penalty, and interest penalty required by this section or section 5747.02, 5747.09, or 5747.15 of the Revised Code. Nothing in division (D) of this section shall be construed to provide to such an investor or pass-through entity any additional deduction or credit, other than the credit provided by division (J) of this section, solely on account of the entity's filing a return in accordance with this section. Such a pass-through entity also shall make the filing and payment of estimated taxes on behalf of the pass-through entity investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code.

(2) For the purposes of this section, "business credits" means the credits listed in section 5747.98 of the Revised Code excluding the following credits:

(a) The retirement credit under division (B) of section 5747.055 of the Revised Code;

(b) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;

(c) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;

(d) The dependent care credit under section 5747.054 of the Revised Code;

(e) The lump sum retirement income credit under division (C)

of section 5747.055 of the Revised Code;	63374
(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	63375 63376
(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	63377 63378
(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	63379 63380
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	63381 63382
(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	63383 63384
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	63385 63386
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	63387 63388
<u>(m) The low-income credit under section 5747.056 of the Revised Code.</u>	63389 63390
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return.	63391 63392 63393 63394 63395 63396 63397 63398
(4) If a pass-through entity makes the election provided for under division (D) of this section, the pass-through entity shall be liable for any additional taxes, interest, interest penalty, or penalties imposed by this chapter if the commissioner finds that the single return does not reflect the correct tax due by the	63399 63400 63401 63402 63403

pass-through entity investors covered by that return. Nothing in
this division shall be construed to limit or alter the liability,
if any, imposed on pass-through entity investors for unpaid or
underpaid taxes, interest, interest penalty, or penalties as a
result of the pass-through entity's making the election provided
for under division (D) of this section. For the purposes of
division (D) of this section, "correct tax due" means the tax that
would have been paid by the pass-through entity had the single
return been filed in a manner reflecting the commissioner's
findings. Nothing in division (D) of this section shall be
construed to make or hold a pass-through entity liable for tax
attributable to a pass-through entity investor's income from a
source other than the pass-through entity electing to file the
single return.

(E) If a husband and wife file a joint federal income tax
return for a taxable year, they shall file a joint return under
this section for that taxable year, and their liabilities are
joint and several, but, if the federal income tax liability of
either spouse is determined on a separate federal income tax
return, they shall file separate returns under this section.

If either spouse is not required to file a federal income tax
return and either or both are required to file a return pursuant
to this chapter, they may elect to file separate or joint returns,
and, pursuant to that election, their liabilities are separate or
joint and several. If a husband and wife file separate returns
pursuant to this chapter, each must claim the taxpayer's own
exemption, but not both, as authorized under section 5747.02 of
the Revised Code on the taxpayer's own return.

(F) Each return or notice required to be filed under this
section shall contain the signature of the taxpayer or the
taxpayer's duly authorized agent and of the person who prepared
the return for the taxpayer, and shall include the taxpayer's

social security number. Each return shall be verified by a 63436
declaration under the penalties of perjury. The tax commissioner 63437
shall prescribe the form that the signature and declaration shall 63438
take. 63439

(G) Each return or notice required to be filed under this 63440
section shall be made and filed as required by section 5747.04 of 63441
the Revised Code, on or before the fifteenth day of April of each 63442
year, on forms that the tax commissioner shall prescribe, together 63443
with remittance made payable to the treasurer of state in the 63444
combined amount of the state and all school district income taxes 63445
shown to be due on the form, unless the combined amount shown to 63446
be due is one dollar or less, in which case that amount need not 63447
be remitted. 63448

Upon good cause shown, the commissioner may extend the period 63449
for filing any notice or return required to be filed under this 63450
section and may adopt rules relating to extensions. If the 63451
extension results in an extension of time for the payment of any 63452
state or school district income tax liability with respect to 63453
which the return is filed, the taxpayer shall pay at the time the 63454
tax liability is paid an amount of interest computed at the rate 63455
per annum prescribed by section 5703.47 of the Revised Code on 63456
that liability from the time that payment is due without extension 63457
to the time of actual payment. Except as provided in section 63458
5747.132 of the Revised Code, in addition to all other interest 63459
charges and penalties, all taxes imposed under this chapter or 63460
Chapter 5748. of the Revised Code and remaining unpaid after they 63461
become due, except combined amounts due of one dollar or less, 63462
bear interest at the rate per annum prescribed by section 5703.47 63463
of the Revised Code until paid or until the day an assessment is 63464
issued under section 5747.13 of the Revised Code, whichever occurs 63465
first. 63466

If the commissioner considers it necessary in order to ensure 63467

the payment of the tax imposed by section 5747.02 of the Revised Code or any tax imposed under Chapter 5748. of the Revised Code, the commissioner may require returns and payments to be made otherwise than as provided in this section.

(H) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that date by United States mail to the agency, officer, or office with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment.

If a payment is required to be made by electronic funds transfer pursuant to section 5747.072 of the Revised Code, the payment is considered to be made when the payment is received by the treasurer of state or credited to an account designated by the treasurer of state for the receipt of tax payments.

"The date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the United States postal service.

(I) The amounts withheld by the employer pursuant to section 5747.06 of the Revised Code shall be allowed to the recipient of the compensation as credits against payment of the appropriate taxes imposed on the recipient by section 5747.02 and under Chapter 5748. of the Revised Code.

(J) If, in accordance with division (D) of this section, a pass-through entity elects to file a single return and if any investor is required to file the return and make the payment of taxes required by this chapter on account of the investor's other

income that is not included in a single return filed by a
pass-through entity, the investor is entitled to a refundable
credit equal to the investor's proportionate share of the tax paid
by the pass-through entity on behalf of the investor. The investor
shall claim the credit for the investor's taxable year in which or
with which ends the taxable year of the pass-through entity.
Nothing in this chapter shall be construed to allow any credit
provided in this chapter to be claimed more than once. For the
purposes of computing any interest, penalty, or interest penalty,
the investor shall be deemed to have paid the refundable credit
provided by this division on the day that the pass-through entity
paid the estimated tax or the tax giving rise to the credit.

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Sec. 5747.331. (A) As used in this section:

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(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 section 5747.02 of the Revised Code.

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(2) "Related member" has the same meaning as in section
5733.042 of the Revised Code.

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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.

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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

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this section unless it has obtained a certificate issued by the 63529
director of development under division (D) of section 166.21 of 63530
the Revised Code. The credit shall be claimed in the order 63531
required under section 5747.98 of the Revised Code. The credit, to 63532
the extent it exceeds the taxpayer's tax liability for the taxable 63533
year after allowance for any other credits that precede the credit 63534
under this section in that order, shall be carried forward to the 63535
next succeeding taxable year or years until fully used. Any credit 63536
not fully utilized by the taxable year beginning in 2007 may be 63537
carried forward and applied against the tax levied by Chapter 63538
5751. of the Revised Code to the extent allowed by section 5751.52 63539
of the Revised Code. 63540

(C) A borrower entitled to a credit under this section may 63541
assign the credit, or a portion thereof, to any of the following: 63542

(1) A related member of that borrower; 63543

(2) The owner or lessee of the eligible research and 63544
development project; 63545

(3) A related member of the owner or lessee of the eligible 63546
research and development project. 63547

A borrower making an assignment under this division shall 63548
provide written notice of the assignment to the tax commissioner 63549
and the director of development, in such form as the tax 63550
commissioner prescribes, before the credit that was assigned is 63551
used. The assignor may not claim the credit to the extent it was 63552
assigned to an assignee. The assignee may claim the credit only to 63553
the extent the assignor has not claimed it. 63554

(D) If any taxpayer is a shareholder in an S corporation, a 63555
partner in a partnership, or a member in a limited liability 63556
company treated as a partnership for federal income tax purposes, 63557
the taxpayer shall be allowed the taxpayer's distributive or 63558
proportionate share of the credit available through the S 63559

corporation, partnership, or limited liability company.

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(E) The aggregate credit against the taxes imposed by sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised Code that may be claimed under this section and section 5733.352 of the Revised Code by a borrower as a result of qualified research and development loan payments attributable during a calendar year to any one loan shall not exceed one hundred fifty thousand dollars.

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Sec. 5747.70. (A) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed to a contributor for the amount contributed during the taxable year to a variable college savings program account and to a purchaser of tuition ~~credits~~ units under the Ohio college savings program created by Chapter 3334. of the Revised Code to the extent that the amounts of such contributions and purchases were not deducted in determining the contributor's or purchaser's federal adjusted gross income for the taxable year. The combined amount of contributions and purchases deducted in any taxable year by a taxpayer or the taxpayer and the taxpayer's spouse, regardless of whether the taxpayer and the taxpayer's spouse file separate returns or a joint return, is limited to two thousand dollars for each beneficiary for whom contributions or purchases are made. If the combined annual contributions and purchases for a beneficiary exceed two thousand dollars, the excess may be carried forward and deducted in future taxable years until the contributions and purchases have been fully deducted.

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(B) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed for:

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(1) Income related to tuition ~~credits~~ units and contributions that as of the end of the taxable year have not been refunded pursuant to the termination of a tuition payment contract or

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variable college savings program account under section 3334.10 of 63591
the Revised Code, to the extent that such income is included in 63592
federal adjusted gross income. 63593

(2) The excess of the total purchase price of tuition ~~credits~~ 63594
units refunded during the taxable year pursuant to the termination 63595
of a tuition payment contract under section 3334.10 of the Revised 63596
Code over the amount of the refund, to the extent the amount of 63597
the excess was not deducted in determining federal adjusted gross 63598
income. Division (B)(2) of this section applies only to ~~credits~~ 63599
units for which no deduction was allowable under division (A) of 63600
this section. 63601

(C) In computing Ohio adjusted gross income, there shall be 63602
added to federal adjusted gross income the amount of loss related 63603
to tuition ~~credits~~ units and contributions that as of the end of 63604
the taxable year have not been refunded pursuant to the 63605
termination of a tuition payment contract or variable college 63606
savings program account under section 3334.10 of the Revised Code, 63607
to the extent that such loss was deducted in determining federal 63608
adjusted gross income. 63609

(D) For taxable years in which distributions or refunds are 63610
made under a tuition payment or variable college savings program 63611
contract for any reason other than payment of tuition or other 63612
higher education expenses, or the beneficiary's death, disability, 63613
or receipt of a scholarship as described in section 3334.10 of the 63614
Revised Code: 63615

(1) If the distribution or refund is paid to the purchaser or 63616
contributor or beneficiary, any portion of the distribution or 63617
refund not included in the recipient's federal adjusted gross 63618
income shall be added to the recipient's federal adjusted gross 63619
income in determining the recipient's Ohio adjusted gross income, 63620
except that the amount added shall not exceed amounts previously 63621
deducted under division (A) of this section less any amounts added 63622

under division (D)(1) of this section in a prior taxable year. 63623

(2) If amounts paid by a purchaser or contributor on or after 63624
January 1, 2000, are distributed or refunded to someone other than 63625
the purchaser or contributor or beneficiary, the amount of the 63626
payment not included in the recipient's federal adjusted gross 63627
income, less any amounts added under division (D) of this section 63628
in a prior taxable year, shall be added to the recipient's federal 63629
adjusted gross income in determining the recipient's Ohio adjusted 63630
gross income. 63631

Sec. 5747.80. (A) Upon the issuance of a tax credit 63632
certificate by the Ohio venture capital authority under section 63633
150.07 of the Revised Code, a credit may be claimed against the 63634
tax imposed by section 5747.02 of the Revised Code. The credit 63635
shall be claimed for the taxable year specified in the certificate 63636
issued by the authority and in the order required under section 63637
5747.98 of the Revised Code. 63638

(B) If the taxpayer elected a refundable credit under section 63639
150.07 of the Revised Code and the amount of the credit shown on 63640
the certificate does not exceed the tax otherwise due under 63641
section 5747.02 of the Revised Code after all nonrefundable 63642
credits are deducted, then the taxpayer shall claim a refundable 63643
credit equal to the amount of the credit shown on the certificate. 63644

(C) If the taxpayer elected a refundable credit under section 63645
150.07 of the Revised Code, and the amount of the credit shown on 63646
the certificate exceeds the tax otherwise due under section 63647
5747.02 of the Revised Code after all nonrefundable credits, 63648
~~including the credit allowed under this section,~~ are deducted in 63649
~~that order,~~ the taxpayer shall ~~receive a refund equal to~~ 63650
~~seventy five per cent of that excess. If the taxpayer elected a~~ 63651
~~nonrefundable credit, the amount of the credit, claimed in that~~ 63652
~~order, shall not exceed the tax otherwise due after all the~~ 63653

~~taxpayer's credits are deducted in that order. If claim a~~ 63654
~~refundable credit equal to the sum of the following:~~ 63655

(1) The amount, if any, of the tax otherwise due under 63656
section 5747.02 of the Revised Code after all nonrefundable 63657
credits are deducted; 63658

(2) Seventy-five per cent of the difference between the 63659
amount of the refundable credit shown on the certificate and the 63660
tax otherwise due under section 5747.02 of the Revised Code after 63661
all nonrefundable credits are deducted. 63662

(D) If the taxpayer elected a nonrefundable credit and the 63663
credit to which the taxpayer would otherwise be entitled under 63664
this section for any taxable year is greater than the tax 63665
otherwise due under section 5747.02 of the Revised Code, after 63666
allowing for any other credits that, under section 5747.98 of the 63667
Revised Code, precede the credit allowed under this section, the 63668
excess shall be allowed as a nonrefundable credit in each of the 63669
ensuing ten taxable years, but the amount of any excess credit 63670
allowed in the ensuing taxable year shall be deducted from the 63671
balance carried forward to the next taxable year. 63672

Sec. 5747.98. (A) To provide a uniform procedure for 63673
calculating the amount of tax due under section 5747.02 of the 63674
Revised Code, a taxpayer shall claim any credits to which the 63675
taxpayer is entitled in the following order: 63676

(1) The retirement income credit under division (B) of 63677
section 5747.055 of the Revised Code; 63678

(2) The senior citizen credit under division (C) of section 63679
5747.05 of the Revised Code; 63680

(3) The lump sum distribution credit under division (D) of 63681
section 5747.05 of the Revised Code; 63682

(4) The dependent care credit under section 5747.054 of the 63683

Revised Code;	63684
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	63685 63686
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	63687 63688
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	63689 63690
(8) <u>The low-income credit under section 5747.056 of the Revised Code;</u>	63691 63692
<u>(9)</u> The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	63693 63694
(9) <u>(10)</u> The campaign contribution credit under section 5747.29 of the Revised Code;	63695 63696
(10) <u>(11)</u> The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	63697 63698
(11) <u>(12)</u> The joint filing credit under division (G) of section 5747.05 of the Revised Code;	63699 63700
(12) <u>(13)</u> The nonresident credit under division (A) of section 5747.05 of the Revised Code;	63701 63702
(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;	63703 63704
(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;	63705 63706 63707
(15) <u>(16)</u> The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	63708 63709
(16) <u>(17)</u> The credit for adoption of a minor child under section 5747.37 of the Revised Code;	63710 63711

(17) <u>(18)</u> The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	63712 63713
(18) <u>(19)</u> The job retention credit under division (B) of section 5747.058 of the Revised Code;	63714 63715
(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;	63716 63717 63718 63719
(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;	63720 63721 63722
(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;	63723 63724 63725
(22) <u>(23)</u> The job training credit under section 5747.39 of the Revised Code;	63726 63727
(23) <u>(24)</u> The enterprise zone credit under section 5709.66 of the Revised Code;	63728 63729
(24) <u>(25)</u> The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	63730 63731
(25) <u>(26)</u> The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	63732 63733
(26) <u>(27)</u> The ethanol plant investment credit under section 5747.75 of the Revised Code;	63734 63735
(27) <u>(28)</u> The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	63736 63737
(28) <u>(29)</u> The export sales credit under section 5747.057 of the Revised Code;	63738 63739
(29) <u>(30)</u> The credit for research and development and	63740

technology transfer investors under section 5747.33 of the Revised Code;	63741 63742
(30) <u>(31)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	63743 63744
(31) <u>(32)</u> The research and development credit under section 5747.331 of the Revised Code;	63745 63746
(32) <u>(33)</u> The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	63747 63748
(33) <u>(34)</u> The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	63749 63750
(34) <u>(35)</u> The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	63751 63752 63753
(35) <u>(36)</u> The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;	63754 63755
(36) <u>(37)</u> 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.	63756 63757 63758 63759
(B) For any credit, except the credits enumerated in divisions (A) (32) <u>(33)</u> to (36) <u>(37)</u> 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.	63760 63761 63762 63763 63764 63765 63766 63767 63768 63769
Sec. 5748.01. As used in this chapter:	63770

(A) "School district income tax" means an income tax adopted under one of the following:	63771 63772
(1) Former section 5748.03 of the Revised Code as it existed prior to its repeal by Amended Substitute House Bill No. 291 of the 115th general assembly;	63773 63774 63775
(2) Section 5748.03 of the Revised Code as enacted in Substitute Senate Bill No. 28 of the 118th general assembly;	63776 63777
(3) Section 5748.08 of the Revised Code as enacted in Amended Substitute Senate Bill No. 17 of the 122nd general assembly.	63778 63779
(B) "Individual" means an individual subject to the tax levied by section 5747.02 of the Revised Code.	63780 63781
(C) "Estate" means an estate subject to the tax levied by section 5747.02 of the Revised Code.	63782 63783
(D) "Taxable year" means a taxable year as defined in division (M) of section 5747.01 of the Revised Code.	63784 63785
(E) "Taxable income" means:	63786
(1) In the case of an individual, <u>adjusted one of the following, as specified in the resolution imposing the tax:</u>	63787 63788
(a) <u>Ohio adjusted gross income for the taxable year as defined in division (A) of section 5747.01 of the Revised Code, less the exemptions provided by section 5747.02 of the Revised Code;</u>	63789 63790 63791 63792
(b) <u>Wages, salaries, tips, and other employee compensation to the extent included in Ohio adjusted gross income as defined in section 5747.01 of the Revised Code, and net earnings from self-employment, as defined in section 1402(a) of the Internal Revenue Code, to the extent included in Ohio adjusted gross income.</u>	63793 63794 63795 63796 63797 63798
(2) In the case of an estate, taxable income for the taxable	63799

year as defined in division (S) of section 5747.01 of the Revised Code. 63800
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(F) Except as provided in section 5747.25 of the Revised Code, "resident" of the school district means: 63802
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(1) An individual who is a resident of this state as defined in division (I) of section 5747.01 of the Revised Code during all or a portion of the taxable year and who, during all or a portion of such period of state residency, is domiciled in the school district or lives in and maintains a permanent place of abode in the school district; 63804
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(2) An estate of a decedent who, at the time of death, was domiciled in the school district. 63810
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(G) "School district income" means: 63812

(1) With respect to an individual, the portion of the taxable income of an individual that is received by the individual during the portion of the taxable year that the individual is a resident of the school district and the school district income tax is in effect in that school district. An individual may have school district income with respect to more than one school district. 63813
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(2) With respect to an estate, the taxable income of the estate for the portion of the taxable year that the school district income tax is in effect in that school district. 63819
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(H) "Taxpayer" means an individual or estate having school district income upon which a school district income tax is imposed. 63822
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(I) "School district purposes" means any of the purposes for which a tax may be levied pursuant to section 5705.21 of the Revised Code. 63825
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Sec. 5748.02. (A) The board of education of any school 63828

district, except a joint vocational school district, may declare, 63829
by resolution, the necessity of raising annually a specified 63830
amount of money for school district purposes. The resolution shall 63831
specify whether the income that is to be subject to the tax is 63832
taxable income of individuals and estates as defined in divisions 63833
(E)(1)(a) and (2) of section 5748.01 of the Revised Code or 63834
taxable income of individuals as defined in division (E)(1)(b) of 63835
that section. A copy of the resolution shall be certified to the 63836
tax commissioner no later than eighty-five days prior to the date 63837
of the election at which the board intends to propose a levy under 63838
this section. Upon receipt of the copy of the resolution, the tax 63839
commissioner shall estimate both of the following: 63840

(1) The property tax rate that would have to be imposed in 63841
the current year by the district to produce an equivalent amount 63842
of money; 63843

(2) The income tax rate that would have had to have been in 63844
effect for the current year to produce an equivalent amount of 63845
money from a school district income tax. 63846

Within ten days of receiving the copy of the board's 63847
resolution, the commissioner shall prepare these estimates and 63848
certify them to the board. Upon receipt of the certification, the 63849
board may adopt a resolution proposing an income tax under 63850
division (B) of this section at the estimated rate contained in 63851
the certification rounded to the nearest one-fourth of one per 63852
cent. The commissioner's certification applies only to the board's 63853
proposal to levy an income tax at the election for which the board 63854
requested the certification. If the board intends to submit a 63855
proposal to levy an income tax at any other election, it shall 63856
request another certification for that election in the manner 63857
prescribed in this division. 63858

(B)(1) Upon the receipt of a certification from the tax 63859
commissioner under division (A) of this section, a majority of the 63860

members of a board of education may adopt a resolution proposing 63861
the levy of an annual tax for school district purposes on ~~the~~ 63862
school district income ~~of individuals and of estates~~. The proposed 63863
levy may be for a continuing period of time or for a specified 63864
number of years. The resolution shall set forth the purpose for 63865
which the tax is to be imposed, the rate of the tax, which shall 63866
be the rate set forth in the commissioner's certification rounded 63867
to the nearest one-fourth of one per cent, the number of years the 63868
tax will be levied or that it will be levied for a continuing 63869
period of time, the date on which the tax shall take effect, which 63870
shall be the first day of January of any year following the year 63871
in which the question is submitted, and the date of the election 63872
at which the proposal shall be submitted to the electors of the 63873
district, which shall be on the date of a primary, general, or 63874
special election the date of which is consistent with section 63875
3501.01 of the Revised Code. The resolution shall specify whether 63876
the income that is to be subject to the tax is taxable income of 63877
individuals and estates as defined in divisions (E)(1)(a) and (2) 63878
of section 5748.01 of the Revised Code or taxable income of 63879
individuals as defined in division (E)(1)(b) of that section. The 63880
specification shall be the same as the specification in the 63881
resolution adopted and certified under division (A) of this 63882
section. If the board of education currently imposes an income tax 63883
pursuant to this chapter that is due to expire and a question is 63884
submitted under this section for a proposed income tax to take 63885
effect upon the expiration of the existing tax, the board may 63886
specify in the resolution that the proposed tax renews the 63887
expiring tax and is not an additional income tax, provided that 63888
the tax rate being proposed is no higher than the tax rate that is 63889
currently imposed. 63890

(2) A board of education adopting a resolution under division 63891
(B)(1) of this section proposing a school district income tax for 63892

a continuing period of time and limited to the purpose of current 63893
expenses may propose in that resolution to reduce the rate or 63894
rates of one or more of the school district's property taxes 63895
levied for a continuing period of time in excess of the ten-mill 63896
limitation for the purpose of current expenses. The reduction in 63897
the rate of a property tax may be any amount, expressed in mills 63898
per one dollar in valuation, not exceeding the rate at which the 63899
tax is authorized to be levied. The reduction in the rate of a tax 63900
shall first take effect for the tax year that includes the day on 63901
which the school district income tax first takes effect, and shall 63902
continue for each tax year that both the school district income 63903
tax and the property tax levy are in effect. 63904

In addition to the matters required to be set forth in the 63905
resolution under division (B)(1) of this section, a resolution 63906
containing a proposal to reduce the rate of one or more property 63907
taxes shall state for each such tax the maximum rate at which it 63908
currently may be levied and the maximum rate at which the tax 63909
could be levied after the proposed reduction, expressed in mills 63910
per one dollar in valuation, and that the tax is levied for a 63911
continuing period of time. 63912

If a board of education proposes to reduce the rate of one or 63913
more property taxes under division (B)(2) of this section, the 63914
board, when it makes the certification required under division (A) 63915
of this section, shall designate the specific levy or levies to be 63916
reduced, the maximum rate at which each levy currently is 63917
authorized to be levied, and the rate by which each levy is 63918
proposed to be reduced. The tax commissioner, when making the 63919
certification to the board under division (A) of this section, 63920
also shall certify the reduction in the total effective tax rate 63921
for current expenses for each class of property that would have 63922
resulted if the proposed reduction in the rate or rates had been 63923
in effect the previous tax year. As used in this paragraph, 63924

"effective tax rate" has the same meaning as in section 323.08 of the Revised Code. 63925
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(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least seventy-five days prior to the election at which the question will appear on the ballot, a copy of the resolution shall be certified to the board of elections of the proper county, which shall submit the proposal to the electors on the date specified in the resolution. The form of the ballot shall be as provided in section 5748.03 of the Revised Code. Publication of notice of the election shall be made in one or more newspapers of general circulation in the county once a week for four consecutive weeks. The notice shall contain the time and place of the election and the question to be submitted to the electors. The question covered by the resolution shall be submitted as a separate proposition, but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers. 63927
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(D) No board of education shall submit the question of a tax on school district income to the electors of the district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election. 63945
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Sec. 5748.03. (A) The form of the ballot on a question submitted to the electors under section 5748.02 of the Revised Code shall be as follows: 63950
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"Shall an annual income tax of (state the proposed rate of tax) on the school district income of individuals and of estates be imposed by (state the name of the school 63953
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district), for (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning (state the date the tax would first take effect), for the purpose of (state the purpose of the tax)?

	FOR THE TAX	
	AGAINST THE TAX	"

(B)(1) If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

(2) If the question submitted to electors proposes to renew an expiring income tax, the ballot shall be modified by adding the following language immediately after the name of the school district that would impose the tax: "to renew an income tax expiring at the end of (state the last year the existing income tax may be levied)."

(3) If the question includes a proposal under division (B)(2) of section 5748.02 of the Revised Code to reduce the rate of one or more school district property taxes, the ballot shall state that the purpose of the school district income tax is for current expenses, and the form of the ballot shall be modified by adding the following language immediately after the statement of the purpose of the proposed income tax: ", and shall the rate of an existing tax on property, currently levied for the purpose of current expenses at the rate of mills, be REDUCED to mills until any such time as the income tax is repealed."

In lieu of "for the tax" and "against the tax," the phrases "for
the issue" and "against the issue," respectively, shall be used.
If a board of education proposes a reduction in the rates of more
than one tax, the ballot language shall be modified accordingly to
express the rates at which those taxes currently are levied and
the rates to which the taxes will be reduced.

(C) The board of elections shall certify the results of the
election to the board of education and to the tax commissioner. If
a majority of the electors voting on the question vote in favor of
it, the income tax, the applicable provisions of Chapter 5747. of
the Revised Code, and the reduction in the rate or rates of
existing property taxes if the question included such a reduction
shall take effect on the date specified in the resolution. If the
question approved by the voters includes a reduction in the rate
of a school district property tax, the board of education shall
not levy the tax at a rate greater than the rate to which the tax
is reduced, unless the school district income tax is repealed in
an election under section 5748.04 of the Revised Code.

(D) If the rate at which a property tax is levied and
collected is reduced pursuant to a question approved under this
section, the tax commissioner shall compute the percentage
required to be computed for that tax under division (D) of section
319.301 of the Revised Code each year the rate is reduced as if
the tax had been levied in the preceding year at the rate at which
it has been reduced. If the rate of a property tax increases due
to the repeal of the school district income tax pursuant to
section 5748.04 of the Revised Code, the tax commissioner, for the
first year for which the rate increases, shall compute the
percentage as if the tax in the preceding year had been levied at
the rate at which the tax was authorized to be levied prior to any
rate reduction.

Sec. 5748.04. (A) The question of the repeal of a school 64018
district income tax levied for more than five years may be 64019
initiated not more than once in any five-year period by filing 64020
with the board of elections of the appropriate counties not later 64021
than seventy-five days before the general election in any year 64022
after the year in which it is approved by the electors a petition 64023
requesting that an election be held on the question. The petition 64024
shall be signed by qualified electors residing in the school 64025
district levying the income tax equal in number to ten per cent of 64026
those voting for governor at the most recent gubernatorial 64027
election. 64028

The board of elections shall determine whether the petition 64029
is valid, and if it so determines, it shall submit the question to 64030
the electors of the district at the next general election. The 64031
election shall be conducted, canvassed, and certified in the same 64032
manner as regular elections for county offices in the county. 64033
Notice of the election shall be published in a newspaper of 64034
general circulation in the district once a week for four 64035
consecutive weeks prior to the election, stating the purpose, the 64036
time, and the place of the election. The form of the ballot cast 64037
at the election shall be as follows: 64038

"Shall the annual income tax of per cent, currently 64039
levied on the school district income of individuals and estates by 64040
..... (state the name of the school district) for the purpose 64041
of (state purpose of the tax), be repealed? 64042

	For repeal of the income tax
	Against repeal of the income tax

"

(B)(1) If the tax is imposed on taxable income as defined in 64047
division (E)(1)(b) of section 5748.01 of the Revised Code, the 64048

form of the ballot shall be modified by stating that the tax 64049
currently is levied on the "earned income of individuals residing 64050
in the school district" in lieu of the "school district income of 64051
individuals and estates." 64052

(2) If the rate of one or more property tax levies was 64053
reduced for the duration of the income tax levy pursuant to 64054
division (B)(2) of section 5748.02 of the Revised Code, the form 64055
of the ballot shall be modified by adding the following language 64056
immediately after "repealed": ", and shall the rate of an existing 64057
tax on property for the purpose of current expenses, which rate 64058
was reduced for the duration of the income tax, be INCREASED from 64059
..... mills to mills per one dollar of valuation beginning 64060
in (state the first year for which the rate of the property 64061
tax will increase)." In lieu of "for repeal of the income tax" and 64062
"against repeal of the income tax," the phrases "for the issue" 64063
and "against the issue," respectively, shall be substituted. 64064

(3) If the rate of more than one property tax was reduced for 64065
the duration of the income tax, the ballot language shall be 64066
modified accordingly to express the rates at which those taxes 64067
currently are levied and the rates to which the taxes would be 64068
increased. 64069

(C) The question covered by the petition shall be submitted 64070
as a separate proposition, but it may be printed on the same 64071
ballot with any other proposition submitted at the same election 64072
other than the election of officers. If a majority of the 64073
qualified electors voting on the question vote in favor of it, the 64074
result shall be certified immediately after the canvass by the 64075
board of elections to the board of education of the school 64076
district and the tax commissioner, who shall thereupon, after the 64077
current year, cease to levy the tax, except that if notes have 64078
been issued pursuant to section 5748.05 of the Revised Code the 64079
tax commissioner shall continue to levy and collect under 64080

authority of the election authorizing the levy an annual amount, 64081
rounded upward to the nearest one-fourth of one per cent, as will 64082
be sufficient to pay the debt charges on the notes as they fall 64083
due. 64084

(D) If a school district income tax repealed pursuant to this 64085
section was approved in conjunction with a reduction in the rate 64086
of one or more school district property taxes as provided in 64087
division (B)(2) of section 5748.02 of the Revised Code, then each 64088
such property tax may be levied after the current year at the rate 64089
at which it could be levied prior to the reduction, subject to any 64090
adjustments required by the county budget commission pursuant to 64091
Chapter 5705. of the Revised Code. Upon the repeal of a school 64092
district income tax under this section, the board of education may 64093
resume levying a property tax, the rate of which has been reduced 64094
pursuant to a question approved under section 5748.02 of the 64095
Revised Code, at the rate the board originally was authorized to 64096
levy the tax. A reduction in the rate of a property tax under 64097
section 5748.02 of the Revised Code is a reduction in the rate at 64098
which a board of education may levy that tax only for the period 64099
during which a school district income tax is levied prior to any 64100
repeal pursuant to this section. The resumption of the authority 64101
to levy the tax upon such a repeal does not constitute a tax 64102
levied in excess of the one per cent limitation prescribed by 64103
Section 2 of Article XII, Ohio Constitution, or in excess of the 64104
ten-mill limitation. 64105

(E) This section does not apply to school district income tax 64106
levies that are levied for five or fewer years. 64107

Sec. 5748.08. (A) The board of education of a city, local, or 64108
exempted village school district, at any time by a vote of 64109
two-thirds of all its members, may declare by resolution that it 64110
may be necessary for the school district to do all of the 64111

following: 64112

(1) Raise a specified amount of money for school district 64113
purposes by levying an annual tax on ~~the~~ school district income ~~of~~ 64114
~~individuals and estates;~~ 64115

(2) Issue general obligation bonds for permanent 64116
improvements, stating in the resolution the necessity and purpose 64117
of the bond issue and the amount, approximate date, estimated rate 64118
of interest, and maximum number of years over which the principal 64119
of the bonds may be paid; 64120

(3) Levy a tax outside the ten-mill limitation to pay debt 64121
charges on the bonds and any anticipatory securities; 64122

(4) Submit the question of the school district income tax and 64123
bond issue to the electors of the district at a special election. 64124

The resolution shall specify whether the income that is to be 64125
subject to the tax is taxable income of individuals and estates as 64126
defined in divisions (E)(1)(a) and (2) of section 5748.01 of the 64127
Revised Code or taxable income of individuals as defined in 64128
division (E)(1)(b) of that section. 64129

On adoption of the resolution, the board shall certify a copy 64130
of it to the tax commissioner and the county auditor no later than 64131
ninety days prior to the date of the special election at which the 64132
board intends to propose the income tax and bond issue. Not later 64133
than ten days of receipt of the resolution, the tax commissioner, 64134
in the same manner as required by division (A) of section 5748.02 64135
of the Revised Code, shall estimate the rates designated in 64136
division (A)(1) and (2) of that section and certify them to the 64137
board. Not later than ten days of receipt of the resolution, the 64138
county auditor shall estimate and certify to the board the average 64139
annual property tax rate required throughout the stated maturity 64140
of the bonds to pay debt charges on the bonds, in the same manner 64141
as under division (C) of section 133.18 of the Revised Code. 64142

(B) On receipt of the tax commissioner's and county auditor's 64143
certifications prepared under division (A) of this section, the 64144
board of education of the city, local, or exempted village school 64145
district, by a vote of two-thirds of all its members, may adopt a 64146
resolution proposing for a specified number of years or for a 64147
continuing period of time the levy of an annual tax for school 64148
district purposes on ~~the school district income of individuals and~~ 64149
~~of estates~~ and declaring that the amount of taxes that can be 64150
raised within the ten-mill limitation will be insufficient to 64151
provide an adequate amount for the present and future requirements 64152
of the school district; that it is necessary to issue general 64153
obligation bonds of the school district for specified permanent 64154
improvements and to levy an additional tax in excess of the 64155
ten-mill limitation to pay the debt charges on the bonds and any 64156
anticipatory securities; and that the question of the bonds and 64157
taxes shall be submitted to the electors of the school district at 64158
a special election, which shall not be earlier than seventy-five 64159
days after certification of the resolution to the board of 64160
elections, and the date of which shall be consistent with section 64161
3501.01 of the Revised Code. The resolution shall specify all of 64162
the following: 64163

(1) The purpose for which the school district income tax is 64164
to be imposed and the rate of the tax, which shall be the rate set 64165
forth in the tax commissioner's certification rounded to the 64166
nearest one-fourth of one per cent; 64167

(2) Whether the income that is to be subject to the tax is 64168
taxable income of individuals and estates as defined in divisions 64169
(E)(1)(a) and (2) of section 5748.01 of the Revised Code or 64170
taxable income of individuals as defined in division (E)(1)(b) of 64171
that section. The specification shall be the same as the 64172
specification in the resolution adopted and certified under 64173
division (A) of this section. 64174

(3) The number of years the tax will be levied, or that it will be levied for a continuing period of time; 64175
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~~(3)~~(4) The date on which the tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted; 64177
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~~(4)~~(5) The county auditor's estimate of the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds. 64180
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(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least seventy-five days prior to the election at which the question will appear on the ballot, the board of education shall certify a copy of the resolution, along with copies of the auditor's estimate and its resolution under division (A) of this section, to the board of elections of the proper county. The board of education shall make the arrangements for the submission of the question to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers. 64183
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The resolution shall be put before the electors as one ballot question, with a majority vote indicating approval of the school district income tax, the bond issue, and the levy to pay debt charges on the bonds and any anticipatory securities. The board of elections shall publish the notice of the election in one or more newspapers of general circulation in the school district once a week for four consecutive weeks. The notice of election shall state all of the following: 64197
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(1) The questions to be submitted to the electors; 64205

(2) The rate of the school district income tax;	64206
(3) The principal amount of the proposed bond issue;	64207
(4) The permanent improvements for which the bonds are to be issued;	64208 64209
(5) The maximum number of years over which the principal of the bonds may be paid;	64210 64211
(6) The estimated additional average annual property tax rate to pay the debt charges on the bonds, as certified by the county auditor;	64212 64213 64214
(7) The time and place of the special election.	64215
(D) The form of the ballot on a question submitted to the electors under this section shall be as follows:	64216 64217
"Shall the school district be authorized to do both of the following:	64218 64219
(1) Impose an annual income tax of (state the proposed rate of tax) on the school district income of individuals and of estates, for (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning (state the date the tax would first take effect), for the purpose of (state the purpose of the tax)?	64220 64221 64222 64223 64224 64225 64226
(2) Issue bonds for the purpose of in the principal amount of \$....., to be repaid annually over a maximum period of years, and levy a property tax outside the ten-mill limitation estimated by the county auditor to average over the bond repayment period mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of tax valuation, to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those	64227 64228 64229 64230 64231 64232 64233 64234 64235

bonds?

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	FOR THE INCOME TAX AND BOND ISSUE
	AGAINST THE INCOME TAX AND BOND ISSUE

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(E) If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

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~~(E)~~(F) The board of elections promptly shall certify the results of the election to the tax commissioner and the county auditor of the county in which the school district is located. If a majority of the electors voting on the question vote in favor of it, the income tax and the applicable provisions of Chapter 5747. of the Revised Code shall take effect on the date specified in the resolution, and the board of education may proceed with issuance of the bonds and with the levy and collection of the property taxes to pay debt charges on the bonds, at the additional rate or any lesser rate in excess of the ten-mill limitation. Any securities issued by the board of education under this section are Chapter 133. securities, as that term is defined in section 133.01 of the Revised Code.

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~~(F)~~(G) After approval of a question under this section, the board of education may anticipate a fraction of the proceeds of the school district income tax in accordance with section 5748.05 of the Revised Code. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of

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their issuance over a period not to exceed five years, and may 64267
have a principal payment in the year of their issuance. 64268

~~(G)~~(H) The question of repeal of a school district income tax 64269
levied for more than five years may be initiated and submitted in 64270
accordance with section 5748.04 of the Revised Code. 64271

~~(H)~~(I) No board of education shall submit a question under 64272
this section to the electors of the school district more than 64273
twice in any calendar year. If a board submits the question twice 64274
in any calendar year, one of the elections on the question shall 64275
be held on the date of the general election. 64276

Sec. 5749.02. (A) For the purpose of providing revenue to 64277
administer the state's coal mining and reclamation regulatory 64278
program, to meet the environmental and resource management needs 64279
of this state, and to reclaim land affected by mining, an excise 64280
tax is hereby levied on the privilege of engaging in the severance 64281
of natural resources from the soil or water of this state. The tax 64282
shall be imposed upon the severer and shall be: 64283

(1) Seven cents per ton of coal; 64284

(2) Four cents per ton of salt; 64285

(3) Two cents per ton of limestone or dolomite; 64286

(4) Two cents per ton of sand and gravel; 64287

(5) Ten cents per barrel of oil; 64288

(6) Two and one-half cents per thousand cubic feet of natural 64289
gas; 64290

(7) One cent per ton of clay, sandstone or conglomerate, 64291
shale, gypsum, or quartzite. 64292

(B) Of the moneys received by the treasurer of state from the 64293
tax levied in division (A)(1) of this section, six and 64294
three-tenths per cent shall be credited to the geological mapping 64295

fund created in section 1505.09 of the Revised Code, fourteen and
two-tenths per cent shall be credited to the reclamation
forfeiture fund created in section 1513.18 of the Revised Code,
fifty-seven and nine-tenths per cent shall be credited to the coal
mining administration and reclamation reserve fund created in
section 1513.181 of the Revised Code, and the remainder shall be
credited to the unreclaimed lands fund created in section 1513.30
of the Revised Code. When, at any time during a fiscal year, the
chief of the division of mineral resources management finds that
the balance of the coal mining administration and reclamation
reserve fund is below two million dollars, the chief shall certify
that fact to the director of budget and management. Upon receipt
of the chief's certification, the director shall direct the
~~treasurer of state~~ tax commissioner to instead credit to the coal
mining administration and reclamation reserve fund during the
remainder of the fiscal year for which the certification is made
the fourteen and two-tenths per cent of the moneys collected from
the tax levied in division (A)(1) of this section and otherwise
required by this division to be credited to the reclamation
forfeiture fund.

Fifteen per cent of the moneys received by the treasurer of
state from the tax levied in division (A)(2) of this section shall
be credited to the geological mapping fund and the remainder shall
be credited to the unreclaimed lands fund.

Of the moneys received by the treasurer of state from the tax
levied in divisions (A)(3) and (4) of this section, seven and
five-tenths per cent shall be credited to the geological mapping
fund, forty-two and five-tenths per cent shall be credited to the
unreclaimed lands fund, and the remainder shall be credited to the
surface mining fund created in section 1514.06 of the Revised
Code.

Of the moneys received by the treasurer of state from the tax

levied in divisions (A)(5) and (6) of this section, ninety per cent shall be credited to the oil and gas well fund created in section 1509.02 of the Revised Code and ten per cent shall be credited to the geological mapping fund. All of the moneys received by the treasurer of state from the tax levied in division (A)(7) of this section shall be credited to the surface mining fund.

(C) For the purpose of paying the state's expenses for reclaiming mined lands that the operator failed to reclaim under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code, or under a surface mining permit issued under Chapter 1514. of the Revised Code, for which the operator's bond is not sufficient to pay the state's expense for reclamation, there is hereby levied an excise tax on the privilege of engaging in the severance of coal from the soil or water of this state in addition to the taxes levied by divisions (A)(1) and (D) of this section. The tax shall be imposed at the rate of one cent per ton of coal. Moneys received by the treasurer of state from the tax levied under this division shall be credited to the reclamation forfeiture fund created in section 1513.18 of the Revised Code.

(D) For the purpose of paying the state's expenses for reclaiming coal mined lands that the operator failed to reclaim in accordance with Chapter 1513. of the Revised Code under a coal mining and reclamation permit issued after April 10, 1972, but before September 1, 1981, for which the operator's bond is not sufficient to pay the state's expense for reclamation and paying the expenses for administering the state's coal mining and reclamation regulatory program, there is hereby levied an excise tax on the privilege of engaging in the severance of coal from the soil or water of this state in addition to the taxes levied by divisions (A)(1) and (C) of this section. The tax shall be imposed at the rate of one cent per ton of coal as prescribed in this

division. Moneys received by the treasurer of state from the tax 64360
levied by this division shall be credited to the reclamation 64361
forfeiture fund created in section 1513.18 of the Revised Code. 64362

When, at the close of any fiscal year, the chief finds that 64363
the balance of the reclamation forfeiture fund, plus estimated 64364
transfers to it from the coal mining and reclamation reserve fund 64365
under section 1513.181 of the Revised Code, plus the estimated 64366
revenues from the tax levied by this division for the remainder of 64367
the calendar year that includes the close of the fiscal year, are 64368
sufficient to complete the reclamation of such lands, the purposes 64369
for which the tax under this division is levied shall be deemed 64370
accomplished at the end of that calendar year. The chief, within 64371
thirty days after the close of the fiscal year, shall certify 64372
those findings to the tax commissioner, and the tax shall cease to 64373
be imposed after the last day of that calendar year. 64374

(E) On the day fixed for the payment of the severance taxes 64375
required to be paid by this section, the taxes with any penalties 64376
or interest on them shall become a lien on all property of the 64377
taxpayer in this state whether the property is employed by the 64378
taxpayer in the prosecution of its business or is in the hands of 64379
an assignee, trustee, or receiver for the benefit of creditors or 64380
stockholders. The lien shall continue until the taxes and any 64381
penalties or interest thereon are paid. 64382

Upon failure of the taxpayer to pay a tax on the day fixed 64383
for payment, the tax commissioner may file, for which no filing 64384
fee shall be charged, in the office of the county recorder in each 64385
county in this state in which the taxpayer owns or has a 64386
beneficial interest in real estate, notice of the lien containing 64387
a brief description of the real estate. The lien shall not be 64388
valid as against any mortgagee, purchaser, or judgment creditor 64389
whose rights have attached prior to the time the notice is filed 64390
in the county in which the real estate that is the subject of the 64391

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.

<u>(E) "Excluded person" means any of the following:</u>	64422
<u>(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;</u>	64423 64424 64425 64426 64427
<u>(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:</u>	64428 64429 64430 64431 64432 64433
<u>(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;</u>	64434 64435 64436 64437
<u>(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;</u>	64438 64439 64440 64441 64442
<u>(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 be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.</u>	64443 64444 64445 64446 64447 64448 64449 64450
<u>As used in division (E)(2) of this section, "combined company," "electric company," "heating company," "natural gas</u>	64451 64452

company," and "rural electric company" have the same meanings as 64453
in section 5727.01 of the Revised Code. 64454

(3) A financial institution, as defined in section 5725.01 of 64455
the Revised Code, that paid the corporation franchise tax charged 64456
by division (D) of section 5733.06 of the Revised Code based on 64457
one or more taxable years that include the entire tax year under 64458
this chapter; 64459

(4) A dealer in intangibles, as defined in section 5725.01 of 64460
the Revised Code, that paid the dealer in intangibles tax levied 64461
by division (D) of section 5707.03 of the Revised Code based on 64462
one or more measurement periods that include the entire tax year 64463
under this chapter; 64464

(5) A financial holding company as defined in the "Bank 64465
Holding Company Act," 12 U.S.C. 1841(p); 64466

(6) A bank holding company as defined in the "Bank Holding 64467
Company Act," 12 U.S.C. 1841(a); 64468

(7) A savings and loan holding company as defined in the 64469
"Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D); 64470

(8) A financial services company, which, for the purposes of 64471
this chapter and Chapter 5733. of the Revised Code, is a person 64472
directly or indirectly subject to supervision, regulation, or 64473
review by the federal reserve board, the comptroller of the 64474
currency, the office of thrift supervision in the United States 64475
department of the treasury, or the division of financial 64476
institutions in the department of commerce; 64477

(9) A person directly or indirectly majority-owned or 64478
controlled by a financial institution, financial holding company, 64479
bank holding company, savings and loan holding company, financial 64480
services company, or insurance company described in division 64481
(E)(3), (5), (6), (7), (8), or (10) of this section; 64482

(10) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code based on one or more measurement periods that include the entire tax year under this chapter; 64483
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(11) A person that was formed or otherwise came into existence with the purpose of facilitating a securitization or similar transaction or series of transactions for or by any person described in division (E)(3), (5), (6), (7), (8), (9), or (10) of this section. 64489
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(F) "Gross receipts" means the total amount realized on sales by a person, without deduction for the cost of goods sold or other expenses incurred, in a transaction or transactions that contribute to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration, and including the total amount realized with regard to unrelated business income of tax-exempt organizations under the Internal Revenue Code. 64494
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(1) The following are examples of gross receipts: 64503

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another; 64504
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(b) Amounts realized from the taxpayer's performance of services for another; 64506
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(c) Amounts realized from another's use or possession of the taxpayer's property or capital; 64508
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(d) Amounts realized with regard to the taxpayer's unrelated business income; 64510
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(e) Any combination of the foregoing amounts. 64512

<u>(2) "Gross receipts" excludes the following amounts:</u>	64513
<u>(a) Interest income except interest on credit sales;</u>	64514
<u>(b) Dividend income, distributions received, and distributive or proportionate shares of a pass-through entity as defined under section 5733.04 of the Revised Code;</u>	64515 64516 64517
<u>(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset;</u>	64518 64519 64520 64521
<u>(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;</u>	64522 64523 64524
<u>(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;</u>	64525 64526 64527
<u>(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;</u>	64528 64529 64530 64531
<u>(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;</u>	64532 64533 64534 64535 64536 64537 64538 64539
<u>(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the person's treasury stock;</u>	64540 64541 64542

<u>(i) Proceeds received on the account of payments from life insurance policies;</u>	64543 64544
<u>(j) Gifts or charitable contributions received, membership dues received, and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes; and proceeds received by a nonprofit organization except those proceeds realized with regard to its unrelated business income;</u>	64545 64546 64547 64548 64549 64550 64551 64552
<u>(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;</u>	64553 64554 64555
<u>(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;</u>	64556 64557 64558
<u>(m) Tax refunds and other tax benefit recoveries;</u>	64559
<u>(n) Pension reversions;</u>	64560
<u>(o) Contributions to capital;</u>	64561
<u>(p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing jurisdiction from a consumer;</u>	64562 64563 64564
<u>(q) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;</u>	64565 64566 64567 64568 64569 64570 64571
<u>(r) In the case of receipts from the sale of motor fuel by a</u>	64572

licensed motor fuel dealer, licensed retail dealer, or licensed 64573
permissive motor fuel dealer, all as defined in section 5735.01 of 64574
the Revised Code, an amount equal to federal and state excise 64575
taxes paid by any person on such motor fuel under section 4081 of 64576
the Internal Revenue Code or Chapter 5735. of the Revised Code; 64577

(s) In the case of receipts from the sale of beer or 64578
intoxicating liquor, as defined in section 4301.01 of the Revised 64579
Code, by a person holding a permit issued under Chapter 4301. or 64580
4303. of the Revised Code or by a person acting as an agent under 64581
section 4301.17 of the Revised Code, an amount equal to federal 64582
and state excise taxes paid by any person on or for such beer or 64583
intoxicating liquor under subtitle E of the Internal Revenue Code 64584
or Chapter 4301. or 4305. of the Revised Code; 64585

(t) Receipts from the sale of spirituous liquor, as defined 64586
in section 4301.01 of the Revised Code, by a person acting as an 64587
agent of the division of liquor control under section 4301.17 of 64588
the Revised Code in excess of the compensation paid to the agent 64589
pursuant to that section; 64590

(u) Amounts received as pari-mutuel wagers that are received, 64591
facilitated, managed, controlled, or otherwise effectuated by a 64592
person holding a valid permit to conduct horse racing meetings 64593
under Chapter 3769. of the Revised Code or by a person that is not 64594
located in this state but is otherwise licensed by and registered 64595
with the state racing commission. 64596

(v) Amounts received from the sale of Ohio lottery tickets by 64597
a lottery sales agent holding a valid license issued under section 64598
3770.05 of the Revised Code in excess of any bonus, commission, or 64599
reimbursement payable to the sales agent; 64600

(w) Amounts received by an authorized agent of the chief of 64601
the division of wildlife from issuing licenses and permits under 64602
section 1533.13 of the Revised Code in excess of the fees charged 64603

and collected by the authorized agent for taking affidavits and
issuing such licenses and permits.

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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.

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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.

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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.

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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.

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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
federal taxable year that includes the tax period. If a taxpayer's
method of accounting for federal income tax purposes changes, its
method of accounting for gross receipts under this chapter shall

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be changed accordingly. 64635

In calculating gross receipts, the following shall be deducted: 64636
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(a) Cash discounts allowed and taken; 64638

(b) Returns and allowances; 64639

(c) Bad debts from receipts upon which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purposes of this division, "bad debts" mean any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and may be claimed as a deduction under section 126 of the Internal Revenue Code and the regulations adopted pursuant thereto, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, expenses in attempting to collect any account receivable or for any portion of the debt recovered, and repossessed property; 64640
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(d) Any amount realized from the sale of an account receivable but only to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer. 64653
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(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.03 of the Revised Code. 64657
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(H) A person has "substantial nexus with this state" if any of the following applies. The person: 64659
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(1) Owns or uses a part or all of its capital in this state; 64661

(2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state; 64662
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(3) Owns or leases property in this state; 64664

(4) Has one or more individuals performing services in this state; 64665
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(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. 64667
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(I) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code. 64670
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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. 64672
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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. 64680
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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. 64684
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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: 64686
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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; 64689
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(2) The group applies to the tax commissioner for approval to 64694

be treated as a consolidated elected taxpayer pursuant to division 64695
(D) of this section; 64696

(3) The group agrees that if the commissioner approves the 64697
election, all of the following apply: 64698

(a) The group shall file reports as a single taxpayer for at 64699
least the two tax years following the election so long at least 64700
two or more of the members of the group meet the requirements of 64701
division (B)(1) of this section. 64702

(b) Before the expiration of the second such tax year, the 64703
group shall notify the commissioner if it elects to cancel its 64704
designation as a consolidated elected taxpayer. If the group does 64705
not so notify the tax commissioner, the election remains in effect 64706
for another two tax years. 64707

(c) If, at any time during the tax years covered by the 64708
election, a former member of the group no longer meets the 64709
requirements under division (A)(1) of this section, that member 64710
shall report and pay the tax imposed under this chapter 64711
separately, as a member of a combined taxpayer, or, if the former 64712
member satisfies such requirements with respect to another 64713
consolidated elected group, as a member of that consolidated 64714
elected group. 64715

(d) The group agrees to the application of division (B) of 64716
this section. 64717

(B) A group of persons making the election under this section 64718
shall report and pay tax on all of the group's taxable gross 64719
receipts even if substantial nexus with this state does not exist 64720
for one or more persons in the group. 64721

(C)(1) A consolidated elected taxpayer shall exclude taxable 64722
gross receipts between its members. Except as provided in division 64723
(C)(2) of this section, nothing in this section shall have the 64724

effect of excluding taxable gross receipts received from persons 64725
that are not members of the group. 64726

(2) Gross receipts related to the sale or transmission of 64727
electricity through the use of an intermediary regional 64728
transmission organization approved by the federal energy 64729
regulatory commission shall be excluded from taxable gross 64730
receipts under division (C)(1) of this section if all other 64731
requirements of that division are met, even if the receipts are 64732
from and to the same member of the group. 64733

(D) To make the election to be a consolidated elected 64734
taxpayer, a group of persons shall apply to the tax commissioner 64735
and pay the commissioner a registration fee equal to the lesser of 64736
two hundred dollars or twenty dollars for each person in the 64737
group. No additional fee shall be imposed for the addition of new 64738
members to the group once the group has remitted a fee in the 64739
amount of two hundred dollars. The application shall be filed and 64740
the fee paid before the later of the beginning of the first tax 64741
year to which the election applies or November 15, 2005. The fee 64742
shall be collected and used in the same manner as provided in 64743
section 5751.05 of the Revised Code. 64744

The election shall be made on a form prescribed by the tax 64745
commissioner for that purpose and shall be signed by one or more 64746
individuals with authority, separately or together, to make a 64747
binding election on behalf of all persons in the group. The tax 64748
commissioner shall approve a group's election if the group 64749
satisfies the requirements of division (A) of this section. 64750

Any person acquired or formed after the filing of the 64751
registration shall be included in the group, and the group shall 64752
notify the tax commissioner of any additions to the group with the 64753
next quarterly tax return it files with the commissioner. 64754

(E) Each member of a consolidated elected taxpayer is jointly 64755

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.

Sec. 5751.012. (A) All persons, other than persons enumerated in divisions (E)(2) to (11) of section 5751.01 of the Revised Code, having more than fifty per cent of the value of their ownership interest owned or controlled, directly or constructively through related interests, by common owners shall be members of a combined taxpayer if those persons are not members of a consolidated elected taxpayer pursuant to an election under section 5751.011 of the Revised Code.

(B) A combined taxpayer shall register, file returns, and pay taxes under this chapter as a single taxpayer.

(C) A combined taxpayer shall neither exclude taxable gross receipts between its members nor from others that are not members.

(D) A combined taxpayer shall pay to the tax commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The fee shall be timely paid before the later of the beginning of the first tax year or November 15, 2005. The fee shall be collected and used in the same manner as provided in section 5751.05 of the Revised Code.

Any person acquired or formed after the filing of the registration shall be included in the group, and the group must notify the tax commissioner of any additions with the next

quarterly tax return it files with the commissioner.

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(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.

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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.

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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.

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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:

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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;

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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,

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one and four-hundredths mills per dollar of taxable gross 64816
receipts; 64817

(3) For the quarterly tax reporting periods ending June 30, 64818
2007, September 30, 2007, December 31, 2007, and March 31, 2008, 64819
one and fifty-six-hundredths mills per dollar of taxable gross 64820
receipts; 64821

(4) For the quarterly tax reporting periods ending June 30, 64822
2008, September 30, 2008, December 31, 2008, and March 31, 2009, 64823
two and eight-hundredths mills per dollar of taxable gross 64824
receipts. 64825

Sec. 5751.031. From its inception through June 30, 2007, the 64826
commercial activity tax levied under this chapter is intended to 64827
generate eight hundred fifteen million dollars. Not later than 64828
September 30, 2007, the tax commissioner shall determine the total 64829
amount of tax paid under this chapter, excluding registration 64830
fees, that was collected from the inception of the tax through 64831
June 30, 2007. If such amount is less than ninety per cent or 64832
greater than one hundred ten per cent of eight hundred fifteen 64833
million dollars, then, for purposes of taxable periods after 64834
calendar year 2007, the tax rate in division (B) of section 64835
5751.03 of the Revised Code shall be adjusted to reflect the tax 64836
rate that would have generated eight hundred fifteen million 64837
dollars of tax from the inception of the tax through June 30, 64838
2007. Upon making such adjustment, the commissioner shall report 64839
and certify the adjusted tax rate to the governor, the president 64840
of the senate, the speaker of the house of representatives, and 64841
all members of the general assembly. The commissioner shall 64842
publish the revised rate by journal entry and provide notice to 64843
taxpayers of the revised rate. 64844

Sec. 5751.032. For the purposes of this chapter, gross 64845

receipts shall be sitused to this state as follows: 64846

(A) Gross rents and royalties from real property located in this state shall be sitused to this state. 64847
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(B) Gross rents and royalties from tangible personal property shall be sitused to this state to the extent the tangible personal property is located or used in this state. 64849
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(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. 64852
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(D) Gross receipts from the sale of real property located in this state shall be sitused to this state. 64856
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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 64858
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conditions of sale.

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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 situated 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 based on the amount of use of the property, but rather on the right to use the property, and the payor has the right to use the property in this state, then the receipts from the sale, exchange, disposition, or other grant of the right to use such property shall be situated to this state to the extent the receipts are based on the right to use the property in this state.

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(G) Gross receipts from the sale of services, and all other gross receipts not otherwise situated under this section, shall be situated to this state in the proportion that the purchaser's benefit in this state with respect to what was purchased bears to the purchaser's benefit everywhere with respect to what was purchased. The physical location where the purchaser ultimately uses or receives the benefit of what was purchased shall be paramount in determining the proportion of the benefit in this state to the benefit everywhere.

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(H) If the situsing provisions of divisions (A) to (G) of this section do not fairly represent the extent of a person's activity in this state, the person may request, or the tax commissioner may require or permit, an alternative method. Such request by a person must be made within the applicable statute of limitations set forth in this chapter.

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(I) The tax commissioner may adopt rules to provide additional guidance to the application of this section, and provide alternative methods of situsing gross receipts that apply to all persons, or subset of persons, that are engaged in similar

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business or trade activities.

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Sec. 5751.033. (A) As used in this section:

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(1) "First budget stabilization fund amount" means the portion of the excess amount, if any, that is not more than forty-two million nine hundred fifty thousand dollars.

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(2) "Tax rate stabilization fund amount" means the portion of the excess amount, if any, that is more than forty-two million nine hundred fifty thousand dollars but not more than eighty-five million nine hundred thousand dollars.

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(3) "Second budget stabilization fund amount" means the portion of the excess amount, if any, which is more than eighty-five million nine hundred thousand dollars.

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(4) "Excess amount" means the amount of tax paid under section 5751.03 of the Revised Code that was collected from July 1, 2007, through June 30, 2008, and that exceeds eight hundred fifty-nine million dollars.

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(B) Not later than September 1, 2008, the tax commissioner shall determine the total amount of tax paid under section 5751.03 of the Revised Code that was collected from July 1, 2007, through June 30, 2008. If such amount of tax paid is more than eight hundred fifty-nine million dollars but is not more than nine hundred one million nine hundred fifty thousand dollars, then the tax commissioner shall proceed in accordance with division (C) of this section. If such amount of tax paid is at least nine hundred one million nine hundred fifty thousand dollars but is not more than nine hundred forty-four million nine hundred thousand dollars, then the tax commissioner shall proceed in accordance with division (D) of this section. If such amount of tax paid is more than nine hundred forty-four million nine hundred thousand dollars, then the tax commissioner shall proceed in accordance

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with divisions (E) and (F) of this section. If such amount of tax 64937
paid is less than seven hundred seventy-three million one hundred 64938
thousand dollars, then the tax commissioner shall proceed in 64939
accordance with division (F) of this section. 64940

(C) The tax commissioner shall certify the first budget 64941
stabilization fund amount to the director of budget and 64942
management, and the director shall transfer such amount to the 64943
budget stabilization fund created under section 131.43 of the 64944
Revised Code. 64945

(D)(1) The tax commissioner shall certify the first budget 64946
stabilization fund amount to the director of budget and 64947
management, and the director shall transfer such amount to the 64948
budget stabilization fund created under section 131.43 of the 64949
Revised Code. 64950

(2) The tax commissioner shall certify the tax rate 64951
stabilization fund amount to the director of budget and 64952
management, and the director shall transfer such amount to the tax 64953
rate stabilization fund created under section 131.46 of the 64954
Revised Code. 64955

(E)(1) The tax commissioner shall certify the first budget 64956
stabilization fund amount to the director of budget and 64957
management, and the director shall transfer such amount to the 64958
budget stabilization fund created under section 131.43 of the 64959
Revised Code. 64960

(2) The tax commissioner shall certify the tax rate 64961
stabilization fund amount to the director of budget and management 64962
and the director shall transfer such amount to the tax rate 64963
stabilization fund created under section 131.46 of the Revised 64964
Code. 64965

(3) The tax commissioner shall certify the second budget 64966
stabilization fund amount to the director of budget and 64967

management, and the director shall transfer such amount to the 64968
budget stabilization fund created under section 131.43 of the 64969
Revised Code. 64970

(F) For purposes of tax periods after calendar year 2008, the 64971
tax commissioner shall adjust the rate in effect under division 64972
(B) of section 5751.03 of the Revised Code to reflect the tax rate 64973
that would have generated eight hundred fifty-nine million dollars 64974
of tax for fiscal year 2008. Upon making such adjustment, the tax 64975
commissioner shall, not later than September 1, 2008, report and 64976
certify the adjusted tax rate to the governor, the president of 64977
the senate, the speaker of the house of representatives, and all 64978
members of the general assembly. The tax commissioner shall 64979
publicize the revised rate by journal entry and provide notice to 64980
taxpayers of the revised rate. 64981

Sec. 5751.034. (A) As used in this section: 64982

(1) "First budget stabilization fund amount" means the 64983
portion of the excess amount, if any, that is not more than 64984
seventy-seven million four hundred thousand dollars. 64985

(2) "Tax rate stabilization fund amount" means the portion of 64986
the excess amount, if any, which is more than seventy-seven 64987
million four hundred thousand dollars but not more than one 64988
hundred fifty-four million eight hundred thousand dollars. 64989

(3) "Second budget stabilization fund amount" means the 64990
portion of the excess amount, if any, that is more than one 64991
hundred fifty-four million eight hundred thousand dollars. 64992

(4) "Excess amount" means the amount of tax paid under 64993
section 5751.03 of the Revised Code that was collected from July 64994
1, 2009, through June 30, 2010, and that exceeds one billion five 64995
hundred forty-eight million dollars. 64996

(B) Not later than September 1, 2010, the tax commissioner 64997

shall determine the total amount of tax paid under section 5751.03 64998
of the Revised Code that was collected from July 1, 2009, through 64999
June 30, 2010. If such amount of tax paid is more than one billion 65000
five hundred forty-eight million dollars, but is not more than one 65001
billion six hundred twenty-five million four hundred thousand 65002
dollars, then the tax commissioner shall proceed in accordance 65003
with division (C) of this section. If such amount of tax paid is 65004
at least one billion six hundred twenty-five million four hundred 65005
thousand dollars, but is not more than one billion seven hundred 65006
two million eight hundred thousand dollars, then the tax 65007
commissioner shall proceed in accordance with division (D) of this 65008
section. If such amount of tax paid is more than one billion seven 65009
hundred two million eight hundred thousand dollars, then the tax 65010
commissioner shall proceed in accordance with divisions (E) and 65011
(F) of this section. If such amount of tax paid is less than one 65012
billion three hundred ninety-three million two hundred thousand 65013
dollars, then the tax commissioner shall proceed in accordance 65014
with division (F) of this section. 65015

(C) The tax commissioner shall certify the first budget 65016
stabilization fund amount to the director of budget and 65017
management, and the director shall transfer such amount to the 65018
budget stabilization fund created under section 131.43 of the 65019
Revised Code. 65020

(D)(1) The tax commissioner shall certify the first budget 65021
stabilization fund amount to the director of budget and 65022
management, and the director shall transfer such amount to the 65023
budget stabilization fund created under section 131.43 of the 65024
Revised Code. 65025

(2) The tax commissioner shall certify the tax rate 65026
stabilization fund amount to the director of budget and 65027
management, and the director shall transfer such amount to the tax 65028
rate stabilization fund created under section 131.46 of the 65029

Revised Code. 65030

(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. 65031
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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. 65036
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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. 65041
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(F) For purposes of tax periods after calendar year 2010, the tax commissioner shall adjust the rate in effect under division (B) of section 5751.03 of the Revised Code to reflect the tax rate that would have generated one billion five hundred forty-eight million dollars of tax for fiscal year 2010. Upon making such adjustment, the tax commissioner shall, not later than September 1, 2008, report and certify the adjusted tax rate to the governor, the president of the senate, the speaker of the house of representatives, and all members of the general assembly. The tax commissioner shall publicize the revised rate by journal entry and provide notice to taxpayers of the revised rate. 65046
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Sec. 5751.04. (A) Not later than the later of November 15, 2005, or thirty days after a person first has more than forty thousand dollars in taxable gross receipts in a tax year, each 65057
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person subject to this chapter shall register with the tax 65060
commissioner on the form prescribed by the commissioner. The form 65061
shall include the following: 65062

(1) The person's name; 65063

(2) If applicable, the name of the state or country under the 65064
laws of which the person is incorporated; 65065

(3) If applicable, the location of a person's principal 65066
office, and, in the case of a foreign corporation, the location of 65067
its principal place of business in this state and the name and 65068
address of the officer or agent of the corporation in charge of 65069
the business in this state; 65070

(4) If applicable, the names of the person's president, 65071
secretary, treasurer, and statutory agent designated pursuant to 65072
section 1703.041 of the Revised Code, with the post office address 65073
of each; 65074

(5) The kind of business in which the person is engaged, 65075
including applicable business or industry codes; 65076

(6) The date of the beginning of the person's annual 65077
accounting period that includes the first day of January of the 65078
tax year; 65079

(7) If the person is not a corporation or a sole proprietor, 65080
the names of all the person's owners and officers; 65081

(8) The person's federal employer identification number or 65082
numbers or, if those are not applicable, the person's social 65083
security number or equivalent; 65084

(9) All other information that the commissioner requires to 65085
administer and enforce this chapter. 65086

(B) Except as otherwise provided in this division, each 65087
person registering with the tax commissioner as required by 65088
division (A) of this section shall pay a registration fee. The fee 65089

shall be in the amount of fifteen dollars if a person registers electronically and twenty dollars if a person does not register electronically. The registration fee shall be paid in the manner prescribed by the tax commissioner at the same time the registration is due if a person is subject to the tax imposed under this chapter before January 1, 2006. If a person first becomes subject to the tax after that date, the registration fee is payable with the first quarterly payment of tax the person is required to remit as prescribed by section 5751.05 of the Revised Code. If a registration fee is not paid when due, an additional fee is imposed in the amount of one hundred dollars per month or part thereof the fee is outstanding, not to exceed one thousand dollars. The tax commissioner may abate the additional fee. The fee imposed under this division may be assessed in the same manner as the tax imposed under this chapter. Proceeds from the fee shall be credited to the commercial activity tax administrative fund, which is hereby created in the state treasury for the commissioner to use in implementing and administering the tax imposed under this chapter.

No registration fee is payable by a person for a tax year if the person first begins business operations in this state after the thirtieth day of November of that tax year or if the person's taxable gross receipts for the tax year exceed forty thousand dollars but do not exceed forty thousand dollars as of the first day of December of the tax year.

Registration fees paid under this section, excluding any additional fee imposed for late payment of the registration fee, shall be credited against the first payment of tax payable under section 5751.03 of the Revised Code after the registration fee is paid.

(C) If a person that has registered under this section is no longer a taxpayer subject to this chapter, including no longer

being a taxpayer because of the application of division (D)(1) of 65122
section 5751.01 of the Revised Code, the person shall notify the 65123
commissioner that the person's registration should be cancelled. 65124

Sec. 5751.05. (A) As used in this section, "applicable rate" 65125
means the rate of tax imposed under division (A) or (B) of section 65126
5751.03 of the Revised Code, as applicable to a quarterly tax 65127
reporting period, after any adjustment under section 5751.031 of 65128
the Revised Code. "Applicable rate" does not include the one 65129
hundred dollar tax amount imposed under division (A) of that 65130
section. 65131

(B) The tax imposed under this chapter is payable in the 65132
amounts and at the times prescribed in divisions (B)(1), (2), (3), 65133
and (4) of this section. 65134

(1) If a taxpayer's taxable gross receipts exceed two hundred 65135
fifty thousand dollars for the first, second, or third quarterly 65136
tax reporting period in the tax year, the taxpayer shall pay an 65137
amount equal to the product of the applicable rate times the 65138
taxpayer's taxable gross receipts for the period in excess of two 65139
hundred fifty thousand dollars on or before the fifteenth day of 65140
the second month following the end of that quarterly tax reporting 65141
period. 65142

(2) If a taxpayer's taxable gross receipts do not exceed two 65143
hundred fifty thousand dollars for any quarterly tax reporting 65144
period in the tax year, no tax is payable for that quarterly tax 65145
reporting period except as provided in division (B)(3) or (4) of 65146
this section. 65147

(3) Each taxpayer shall pay one hundred dollars on or before 65148
the fifteenth day of February following the end of each tax year, 65149
except as provided in division (B)(4) of this section. 65150

(4) If a person first becomes subject to the tax imposed 65151

under this chapter on or after January 1, 2006, the taxpayer shall 65152
pay one hundred dollars on or before the fifteenth day of the 65153
second month following the end of the first quarterly tax 65154
reporting period in which the person becomes subject to the tax, 65155
in addition to any amount payable under division (B)(1) of this 65156
section. If the person registers with the tax commissioner within 65157
the time prescribed in section 5751.04 of the Revised Code, the 65158
person shall pay fifty dollars, in lieu of one hundred dollars, in 65159
addition to any amount payable under division (B)(1) of this 65160
section. The payment required under division (B)(4) of this 65161
section is in lieu of the payment required under division (B)(3) 65162
of this section and applies only to the first tax year a person 65163
becomes subject to the tax imposed under this chapter. 65164

(C) For any quarterly tax reporting period for which a 65165
taxpayer is required to make a payment of tax under division (B) 65166
of this section, the taxpayer shall file a return for that period 65167
in the form and manner prescribed by the tax commissioner. The 65168
return shall include the taxpayer's taxable gross receipts for the 65169
quarterly tax reporting period and the amount of tax due for the 65170
period, as prescribed in division (B) of this section, and any 65171
other information the tax commissioner requires. 65172

(D) Each taxpayer that is required to file a return under 65173
division (C) of this section for any quarterly tax reporting 65174
period of the tax year shall file an annual report for that tax 65175
year with the tax commissioner on or before the fifteenth day of 65176
March of the following tax year. The annual report shall include 65177
the taxpayer's taxable gross receipts, the amount of tax due, and 65178
the amount of tax paid for each quarterly tax reporting period of 65179
the tax year, and any other information the tax commissioner 65180
requires. 65181

(E)(1) If a taxpayer's taxable gross receipts for a tax year 65182
exceed one million dollars, the taxpayer, on or before the 65183

fifteenth day of March following the end of the tax year, shall 65184
pay tax equal to the amount by which the taxpayer's taxable gross 65185
receipts in excess of one million dollars, multiplied by the 65186
applicable tax rate, exceeds the amount of tax paid in the tax 65187
year under division (B)(1) of this section, except as provided in 65188
division (F) of this section. The tax payable under division 65189
(D)(1) of this section is in addition to the amount payable under 65190
division (B)(3) or (4) of this section. 65191

(2) If a taxpayer's taxable gross receipts for a tax year do 65192
not exceed one million dollars, the taxpayer shall pay tax equal 65193
to one hundred dollars minus the amount paid for the tax year 65194
under division (B)(1) or (3) of this section. If the amount of tax 65195
the taxpayer paid for the tax year under those divisions exceeds 65196
one hundred dollars, the excess shall be refunded to the taxpayer 65197
or applied to the tax due for a subsequent tax year as provided in 65198
section 5751.08 of the Revised Code. 65199

(F) For tax years 2006, 2007, 2008, and 2009, the amount of 65200
tax payable on or before the fifteenth day of February following 65201
the end of the tax year shall be computed as follows: 65202

(1) For tax year 2006, six-tenths of one mill per dollar 65203
multiplied by one-fourth of the taxable gross receipts in excess 65204
of one million dollars, plus one and four-hundredths mills per 65205
dollar multiplied by three-fourths of taxable gross receipts in 65206
excess of one million dollars; 65207

(2) For tax year 2007, one and four-hundredths mills per 65208
dollar multiplied by one-fourth of the taxable gross receipts in 65209
excess of one million dollars, plus one and fifty-six-hundredths 65210
mills per dollar multiplied by three-fourths of taxable gross 65211
receipts in excess of one million dollars; 65212

(3) For tax year 2008, one and fifty-six-hundredths mills per 65213
dollar multiplied by one-fourth of the taxable gross receipts in 65214

excess of one million dollars, plus two and eight-hundredths mills 65215
per dollar multiplied by three-fourths of taxable gross receipts 65216
in excess of one million dollars; 65217

(4) For tax year 2009, two and eight-hundredths mills per 65218
dollar multiplied by one-fourth of the taxable gross receipts in 65219
excess of one million dollars, plus two and three-tenths mills per 65220
dollar multiplied by three-fourths of taxable gross receipts in 65221
excess of one million dollars. 65222

Sec. 5751.06. (A) Any taxpayer that fails to file a return or 65223
pay the full amount of the tax due within the period prescribed 65224
therefor under this chapter shall pay a penalty in an amount not 65225
exceeding the greater of fifty dollars or ten per cent of the tax 65226
required to be paid for the quarterly tax reporting period. 65227

(B)(1) If any additional tax is found to be due, the tax 65228
commissioner may impose an additional penalty of up to fifteen per 65229
cent on the additional tax found to be due. 65230

(2) Any delinquent payments of the tax made after a taxpayer 65231
is notified of an audit or a tax discrepancy by the commissioner 65232
is subject to the penalty imposed by division (B) of this section. 65233
If an assessment is issued under section 5751.10 of the Revised 65234
Code in connection with such delinquent payments, the payments 65235
shall be credited to the assessment. 65236

(C) If the tax commissioner notifies a person required to 65237
register under section 5751.05 of the Revised Code of such 65238
requirement and of the requirement to remit the tax due under this 65239
chapter, and the person fails to so register and remit the tax 65240
within sixty days after such notice, the tax commissioner may 65241
impose an additional penalty of up to thirty-five per cent of the 65242
tax due. The penalty imposed under this division is in addition to 65243
any other penalties imposed under this section. 65244

(D) The tax commissioner may collect any penalty or interest imposed by this section in the same manner as the tax imposed under this chapter. Penalties and interest so collected shall be considered as revenue arising from the tax imposed under this chapter. 65245
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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. 65250
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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. 65253
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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. 65258
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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. 65266
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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: 65271
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(a) For either of the first two quarterly tax reporting 65274

periods the person so fails, five per cent of the amount of the 65275
payment that was required to be remitted; 65276

(b) For the third and any subsequent quarterly tax reporting 65277
periods the person so fails, ten per cent of the amount of the 65278
payment that was required to be remitted. 65279

(2) The penalty imposed under division (C)(1) of this section 65280
is in addition to any other penalty imposed under this chapter and 65281
shall be considered as revenue arising from the tax imposed under 65282
this chapter. A penalty may be collected by assessment in the 65283
manner prescribed by section 5751.09 of the Revised Code. The tax 65284
commissioner may abate all or a portion of such a penalty. 65285

Sec. 5751.08. (A) An application for refund to the taxpayer 65286
of the amount of taxes imposed under this chapter that are 65287
overpaid, paid illegally or erroneously, or paid on any illegal or 65288
erroneous assessment shall be filed with the tax commissioner, on 65289
the form prescribed by the commissioner, within four years after 65290
the date of the illegal or erroneous payment of the tax. The 65291
applicant shall provide the amount of the requested refund along 65292
with the claimed reasons for, and documentation to support, the 65293
issuance of a refund. 65294

(B) On the filing of the refund application, the tax 65295
commissioner shall determine the amount of refund to which the 65296
applicant is entitled. If the amount is not less than that 65297
claimed, the commissioner shall certify the amount to the director 65298
of budget and management and treasurer of state for payment from 65299
the tax refund fund created under section 5703.052 of the Revised 65300
Code. If the amount is less than that claimed, the commissioner 65301
shall proceed in accordance with section 5703.70 of the Revised 65302
Code. 65303

(C) Interest on a refund applied for under this section, 65304

computed at the rate provided for in section 5703.47 of the 65305
Revised Code, shall be allowed from the later of the date the tax 65306
was paid or when the tax payment was due. 65307

(D) No person with an active registration as a taxpayer under 65308
this chapter may claim a refund under this section for the tax 65309
imposed under division (B)(3) or (4) of section 5751.03 of the 65310
Revised Code unless the person cancelled the registration before 65311
the tenth day of February of the current calendar year pursuant to 65312
division (C) of section 5751.04 of the Revised Code. 65313

(E) Except as provided in section 5751.091 of the Revised 65314
Code, the tax commissioner may, with the consent of the taxpayer, 65315
provide for the crediting against tax due for a tax year the 65316
amount of any refund due the taxpayer under this chapter for a 65317
preceding tax year. 65318

Sec. 5751.081. As used in this section, "debt to this state" 65319
means unpaid taxes due the state, unpaid workers' compensation 65320
premiums due under section 4123.35 of the Revised Code, unpaid 65321
unemployment compensation contributions due under section 4141.25 65322
of the Revised Code, unpaid unemployment compensation payment in 65323
lieu of contribution under section 4141.241 of the Revised Code, 65324
unpaid fee payable to the state or to the clerk of courts pursuant 65325
to section 4505.06 of the Revised Code, incorrect medical 65326
assistance payments under section 5111.02 of the Revised Code, or 65327
any unpaid charge, penalty, or interest arising from any of the 65328
foregoing. 65329

If a taxpayer entitled to a refund under section 5751.08 of 65330
the Revised Code owes any debt to this state, the amount 65331
refundable may be applied in satisfaction of the debt. If the 65332
amount refundable is less than the amount of the debt, it may be 65333
applied in partial satisfaction of the debt. If the amount 65334
refundable is greater than the amount of the debt, the amount 65335

remaining after satisfaction of the debt shall be refunded. This 65336
section applies only to debts that have become final. For the 65337
purposes of this section, a debt becomes final when, under the 65338
applicable law, any time provided for petition for reassessment, 65339
request for reconsideration, or other appeal of the legality or 65340
validity of the amount giving rise to the debt expires without an 65341
appeal having been filed in the manner provided by law. 65342

Sec. 5751.09. (A) The tax commissioner may make an 65343
assessment, based on any information in the commissioner's 65344
possession, against any person that fails to file a return report 65345
or pay any tax as required by this chapter. The commissioner shall 65346
give the person assessed written notice of the assessment as 65347
provided in section 5703.37 of the Revised Code. With the notice, 65348
the commissioner shall provide instructions on the manner in which 65349
to petition for reassessment and request a hearing with respect to 65350
the petition. 65351

(B) Unless the person assessed, within sixty days after 65352
service of the notice of assessment, files with the tax 65353
commissioner, either personally or by certified mail, a written 65354
petition signed by the person or the person's authorized agent 65355
having knowledge of the facts, the assessment becomes final, and 65356
the amount of the assessment is due and payable from the person 65357
assessed to the treasurer of state. The petition shall indicate 65358
the objections of the person assessed, but additional objections 65359
may be raised in writing if received by the commissioner prior to 65360
the date shown on the final determination. 65361

If a petition for reassessment has been properly filed, the 65362
commissioner shall proceed under section 5703.60 of the Revised 65363
Code. 65364

(C)(1) After an assessment becomes final, if any portion of 65365
the assessment, including accrued interest, remains unpaid, a 65366

certified copy of the tax commissioner's entry making the 65367
assessment final may be filed in the office of the clerk of the 65368
court of common pleas in the county in which the person resides or 65369
has its principal place of business in this state, or in the 65370
office of the clerk of court of common pleas of Franklin county. 65371

(2) Immediately upon the filing of the entry, the clerk shall 65372
enter judgment for the state against the person assessed in the 65373
amount shown on the entry. The judgment may be filed by the clerk 65374
in a loose-leaf book entitled, "special judgments for the 65375
commercial activity tax" and shall have the same effect as other 65376
judgments. Execution shall issue upon the judgment at the request 65377
of the tax commissioner, and all laws applicable to sales on 65378
execution shall apply to sales made under the judgment. 65379

(3) The portion of the assessment not paid within sixty days 65380
after the day the assessment was issued shall bear interest at the 65381
rate per annum prescribed by section 5703.47 of the Revised Code 65382
from the day the tax commissioner issues the assessment until it 65383
is paid. Interest shall be paid in the same manner as the tax and 65384
may be collected by the issuance of an assessment under this 65385
section. 65386

(D) If the tax commissioner believes that collection of the 65387
tax will be jeopardized unless proceedings to collect or secure 65388
collection of the tax are instituted without delay, the 65389
commissioner may issue a jeopardy assessment against the person 65390
liable for the tax. Immediately upon the issuance of the jeopardy 65391
assessment, the commissioner shall file an entry with the clerk of 65392
the court of common pleas in the manner prescribed by division (C) 65393
of this section. Notice of the jeopardy assessment shall be served 65394
on the person assessed or the person's authorized agent in the 65395
manner provided in section 5703.37 of the Revised Code within five 65396
days of the filing of the entry with the clerk. The total amount 65397
assessed is immediately due and payable, unless the person 65398

assessed files a petition for reassessment in accordance with 65399
division (B) of this section and provides security in a form 65400
satisfactory to the commissioner and in an amount sufficient to 65401
satisfy the unpaid balance of the assessment. Full or partial 65402
payment of the assessment does not prejudice the commissioner's 65403
consideration of the petition for reassessment. 65404

(E) The tax commissioner shall immediately forward to the 65405
treasurer of state all amounts the commissioner receives under 65406
this section, and such amounts shall be considered as revenue 65407
arising from the tax imposed under this chapter. 65408

(F) Except as otherwise provided in this division, no 65409
assessment shall be made or issued against a taxpayer for the tax 65410
imposed under this chapter more than four years after the due date 65411
for the filing of the annual report for the tax year for which the 65412
tax was reported, or more than four years after the annual report 65413
for the tax year was filed, whichever is later. Nothing in this 65414
division bars an assessment against a taxpayer that fails to file 65415
a return or report required by this chapter or that files a 65416
fraudulent return or report. 65417

(G) If the tax commissioner possesses information that 65418
indicates that the amount of tax a taxpayer is required to pay 65419
under this chapter exceeds the amount the taxpayer paid, the tax 65420
commissioner may audit a sample of the taxpayer's sales or 65421
receipts over a representative period of time to ascertain the 65422
amount of tax due, and may issue an assessment based on the audit. 65423
The tax commissioner shall make a good faith effort to reach 65424
agreement with the taxpayer in selecting a representative sample. 65425
The tax commissioner may apply a sampling method only if the 65426
commissioner has prescribed the method by rule adopted under 65427
Chapter 119. of the Revised Code. 65428

(H) If the whereabouts of a person subject to this chapter is 65429

not known to the tax commissioner, the secretary of state is 65430
hereby deemed to be that person's agent for purposes of service of 65431
process of notice of any assessment, action, or proceedings 65432
instituted in this state against the person under this chapter. 65433
Such process or notice shall be served on such person by the 65434
commissioner or by one of the commissioner's agents by leaving at 65435
the office of the secretary of state, at least fifteen days before 65436
the return day of such process or notice, a true and attested copy 65437
of the notice, and by sending to such person by ordinary mail, 65438
with an endorsement thereon of the service upon the secretary of 65439
state, addressed to such person at the person's last known 65440
address. 65441

Sec. 5751.10. If any person liable for the tax imposed under 65442
this chapter sells the trade or business, disposes in any manner 65443
other than in the regular course of business at least seventy-five 65444
per cent of assets of the trade or business, or quits the trade or 65445
business, any tax owed by such person shall become due and payable 65446
immediately, and the person shall pay the tax under this section, 65447
including any applicable penalties and interest, within fifteen 65448
days after the date of selling or quitting the trade or business. 65449
The person's successor shall withhold a sufficient amount of the 65450
purchase money to cover the amount due and unpaid until the former 65451
owner produces a receipt from the tax commissioner showing that 65452
the amounts are paid or a certificate indicating that no taxes are 65453
due. If a purchaser fails to withhold purchase money, that person 65454
is personally liable up to the purchase money amount, for such 65455
amounts that are unpaid during the operation of the business by 65456
the former owner. 65457

The tax commissioner may adopt rules regarding the issuance 65458
of certificates under this section, including the waiver of the 65459
need for a certificate if certain criteria are met. 65460

Sec. 5751.11. If any person subject to this chapter fails to report or pay the tax as required under this chapter, or fails to pay any penalty imposed under this chapter within ninety days after the time prescribed for payment of the penalty, the attorney general, on the request of the tax commissioner, shall commence an action in quo warranto in the court of appeals of the county in which the person has its principal place of business to forfeit and annul its privileges or franchise within this state. If the court finds that the person is in default for the amount claimed, it shall render judgment revoking the person's privileges or franchise within this state and shall otherwise proceed as provided in Chapter 2733. of the Revised Code.

Sec. 5751.12. The tax commissioner may prescribe requirements for the keeping of records and other pertinent documents, the filing of copies of federal income tax returns and determinations, and computations reconciling federal income tax returns with the returns and reports required by section 5751.05 of the Revised Code. The commissioner may require any person, by rule or notice served on that person, to keep those records that the commissioner considers necessary to show whether, and the extent to which, a person is subject to this chapter. Those records and other documents shall be open during business hours to the inspection of the commissioner, and shall be preserved for a period of four years unless the commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer. If such records are normally kept by the person electronically, the person shall provide such records to the commissioner electronically at the commissioner's request.

Any information required by the tax commissioner under this chapter is confidential as provided for in section 5703.21 of the Revised Code. However, the commissioner shall make public an

electronic list of all actively registered persons required to 65492
remit the tax under this chapter, including legal names, trade 65493
names, addresses, and account numbers. In addition, such list 65494
shall include all persons that cancelled their registration at any 65495
time during the preceding four calendar years, including the date 65496
the registration was cancelled. 65497

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of 65498
the Revised Code: 65499

(1) "School district," "joint vocational school district," 65500
"local taxing unit," "state education aid," "recognized 65501
valuation," "fixed-rate levy," and "fixed-sum levy" have the same 65502
meanings as used in section 5727.84 of the Revised Code. 65503

(2) "State education aid offset" means the amount determined 65504
for each school district or joint vocational school district under 65505
division (A)(1) of section 5751.21 of the Revised Code. 65506

(3) "Machinery and equipment property tax value loss" means 65507
the amount determined under division (C)(1) of this section. 65508

(4) "Inventory property tax value loss" means the amount 65509
determined under division (C)(2) of this section. 65510

(5) "Furniture and fixtures property tax value loss" means 65511
the amount determined under division (C)(3) of this section. 65512

(6) "Machinery and equipment fixed-rate levy loss" means the 65513
amount determined under division (D)(1) of this section. 65514

(7) "Inventory fixed-rate levy loss" means the amount 65515
determined under division (D)(2) of this section. 65516

(8) "Furniture and fixtures fixed-rate levy loss" means the 65517
amount determined under division (D)(3) of this section. 65518

(9) "Fixed-sum levy loss" means the amount determined under 65519
division (E) of this section. 65520

(10) "Machinery and equipment" means personal property subject to the assessment rate specified in division (F) of section 5711.22 of the Revised Code. 65521
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(11) "Inventory" means personal property subject to the assessment rate specified in division (E) of section 5711.22 of the Revised Code. 65524
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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. 65527
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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: 65530
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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>	65543
<u>2007</u>	<u>37.3%</u>	<u>43.9%</u>	<u>18.8%</u>	65544
<u>2008</u>	<u>27.7%</u>	<u>50.6%</u>	<u>21.7%</u>	65545
<u>2009</u>	<u>36.3%</u>	<u>44.6%</u>	<u>19.1%</u>	65546
<u>2010</u>	<u>41.8%</u>	<u>40.7%</u>	<u>17.5%</u>	65547
<u>2011</u>	<u>36.8%</u>	<u>44.2%</u>	<u>19.0%</u>	65548
<u>2012</u>	<u>40.0%</u>	<u>44.2%</u>	<u>15.8%</u>	65549

<u>2013</u>	<u>43.0%</u>	<u>44.2%</u>	<u>12.8%</u>	65550
<u>2014</u>	<u>45.7%</u>	<u>44.2%</u>	<u>10.1%</u>	65551
<u>2015</u>	<u>48.2%</u>	<u>44.2%</u>	<u>7.6%</u>	65552
<u>2016</u>	<u>50.6%</u>	<u>44.2%</u>	<u>5.2%</u>	65553
<u>2017</u>	<u>52.8%</u>	<u>44.2%</u>	<u>3.0%</u>	65554
<u>2018</u>	<u>54.8%</u>	<u>44.2%</u>	<u>1.0%</u>	65555
<u>2019 and</u> <u>thereafter</u>	<u>100%</u>	<u>0%</u>	<u>0%</u>	65556

(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: 65557
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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; 65562
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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; 65565
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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. 65568
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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. 65571
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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, 65576
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which are the applicable amounts described in divisions (D)(1), 65580
(2), and (3) of this section: 65581

(1) The machinery and equipment fixed-rate levy loss is the 65582
machinery and equipment property tax value loss multiplied by the 65583
sum of the tax rates in effect in tax year 2004 for fixed-rate 65584
levies and the tax rates for fixed-rate levies applicable to tax 65585
year 2005 and approved at an election conducted before September 65586
1, 2005; 65587

(2) The inventory fixed-rate loss is the inventory property 65588
tax value loss multiplied by the sum of the tax rates in effect in 65589
tax year 2004 for fixed-rate levies and the tax rates for 65590
fixed-rate levies applicable to tax year 2005 and approved at an 65591
election conducted before September 1, 2005; 65592

(3) The furniture and fixtures fixed-rate levy loss is the 65593
furniture and fixture property tax value loss multiplied by the 65594
sum of the tax rates in effect in tax year 2004 for fixed-rate 65595
levies and the tax rates for fixed-rate levies applicable to tax 65596
year 2005 and approved at an election conducted before September 65597
1, 2005. 65598

(E) As used in division (E) of this section, "qualifying 65599
levies" are fixed-sum levies, including fixed-sum school district 65600
emergency levies, in effect for tax year 2004 or applicable for 65601
tax year 2005 and approved at an election conducted before 65602
September 1, 2005. 65603

Not later than September 15, 2005, the tax commissioner shall 65604
determine for each school district, joint vocational school 65605
district, and local taxing unit its fixed-sum levy loss. The 65606
fixed-sum levy loss is the amount obtained by subtracting the 65607
amount described in division (E)(2) of this section from the 65608
amount described in division (E)(1) of this section: 65609

(1) The sum of the machinery and equipment property tax value 65610

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 fixed-sum tax rates for levies applicable to tax year 2005 and approved at an election conducted before September 1, 2005. For 2006 through 2010, this computation shall include all qualifying levies remaining in effect for the current tax year and any school district emergency levies that are qualifying levies not remaining in effect for the current year. For 2011 through 2017, this computation shall include only qualifying levies remaining in effect for the current year. For purposes of this computation, a qualifying school district emergency levy remains in effect in a year after 2010 only if, for 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 2004 less the amount of the payment certified under this division for 2006.

(2) The total taxable value in tax year 2004 less the sum of the machinery and equipment, inventory, and furniture and fixtures property tax value losses in each school district, joint vocational school district, and local taxing unit multiplied by one-half of one mill per dollar.

To facilitate the calculation of the fixed-sum levy loss, not later than September 1, 2005, any school district or joint vocational school district in which a fixed-sum levy applicable to tax year 2005 and approved at an election conducted before September 1, 2005, shall notify the commissioner in writing of the estimated rate at which any such levies would be applied in the first year the levies are applicable.

If the amount determined under division (E) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the reimbursement pursuant to division (D) of section 5751.21 or

division (A)(2) of section 5751.22 of the Revised Code, and the 65643
one-half of one mill that is subtracted under division (E)(2) of 65644
this section shall be apportioned among all contributing fixed-sum 65645
levies in the proportion of each levy to the sum of all fixed-sum 65646
levies within each school district, joint vocational school 65647
district, or local taxing unit. 65648

(F) Not later than October 1, 2005, the tax commissioner 65649
shall certify to the department of education for every school 65650
district and joint vocational school district the machinery and 65651
equipment, inventory, and furniture and fixtures property tax 65652
value losses determined under division (C) of this section, the 65653
machinery and equipment, inventory, and furniture and fixtures 65654
property fixed-rate levy losses determined under division (D) of 65655
this section, and the fixed-sum levy losses calculated under 65656
division (E) of this section. The calculations under divisions (D) 65657
and (E) of this section shall separately display the levy loss for 65658
each levy eligible for reimbursement. 65659

(G) Not later than October 1, 2005, the tax commissioner 65660
shall certify the amount of the fixed-sum levy losses to the 65661
county auditor of each county in which a school district, joint 65662
vocational school district, or local taxing unit with a fixed-sum 65663
levy loss reimbursement has territory. 65664

Sec. 5751.21. (A) Not later than the thirty-first day of July 65665
of 2007 through 2017, the department of education shall determine 65666
the following for each school district and each joint vocational 65667
school district eligible for payment under division (B) of this 65668
section: 65669

(1) The state education aid offset, which is the difference 65670
obtained by subtracting the amount described in division (A)(1)(b) 65671
of this section from the amount described in division (A)(1)(a) of 65672
this section: 65673

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July; 65674
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(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the recognized valuation included the machinery and equipment, inventory, and furniture and fixtures property tax value losses for the school district or joint vocational school district, except that the amount of machinery and equipment property tax value loss to be added to recognized value for fiscal year 2008 shall be fifty per cent of the machinery and equipment tax value loss computed under division (C) of this section, and the amount of inventory tax value loss and furniture and fixtures property tax value loss to be added to recognized value shall be the following percentage of the inventory property tax value loss and furniture and fixtures property tax value loss computed under division (C) of this section: 65677
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(i) For fiscal year 2008, zero per cent in the case of inventory property tax value loss and twenty per cent in the case of furniture and fixtures tax value loss; 65692
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(ii) For fiscal year 2009, zero per cent in the case of inventory property tax value loss and forty per cent in the case of furniture and fixtures property tax value loss; 65695
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(iii) For fiscal year 2010, twenty-six and three-tenths per cent in the case of inventory property tax value loss and sixty per cent in the case of furniture and fixtures tax value loss; 65698
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(iv) For fiscal year 2011, fifty-two and six-tenths per cent in the case of inventory property tax value loss and eighty per cent in the case of furniture and fixtures property tax value loss; 65701
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(v) For fiscal years after 2011, seventy-eight and 65705
nine-tenths per cent in the case of inventory property tax value 65706
loss and one hundred per cent in the case of furniture and 65707
fixtures property tax value loss. 65708

(2) The greater of zero or the difference obtained by 65709
subtracting the state education aid offset determined under 65710
division (A)(1) of this section from the sum of the machinery and 65711
equipment fixed-rate levy loss, the inventory fixed-rate levy 65712
loss, and furniture and fixtures fixed-rate levy loss certified 65713
under division (F) of section 5751.20 of the Revised Code for all 65714
taxing districts in each school district and joint vocational 65715
school district. 65716

By the fifth day of August of each such year, the department 65717
of education shall certify the amount so determined under division 65718
(A)(1) of this section to the director of budget and management. 65719

(B) The department of education shall pay from the school 65720
district tangible property tax replacement fund to each school 65721
district and joint vocational school district all of the 65722
following: 65723

(1) On or before May 31, 2006, one-twelfth of the machinery 65724
and equipment fixed-rate levy loss plus one-thirtieth of the 65725
furniture and fixtures fixed-rate levy loss certified under 65726
division (F) of section 5751.20 of the Revised Code; 65727

(2) On or before August 31, 2006, November 30, 2006, and 65728
February 28, 2007, one-seventh of the machinery and equipment 65729
fixed-rate levy loss plus two-thirty-fifths of the furniture and 65730
fixtures fixed-rate levy loss certified under that division; 65731

(3) On or before May 31, 2007, one-sixth of the machinery and 65732
equipment fixed-rate levy loss plus one-fifteenth of the furniture 65733
and fixtures fixed-rate levy loss certified under that division; 65734

(4) On or before August 31, 2007, November 30, 2007, and 65735
February 29, 2008, one-fourth of the amount determined under 65736
division (A)(2) of this section; 65737

(5) On or before May 31, 2008, the sum of one-fourth of the 65738
amount determined under division (A)(2) of this section and 65739
forty-four one-thousandths of the inventory fixed-rate levy loss 65740
certified under division (F) of section 5751.20 of the Revised 65741
Code; 65742

(6) On or before August 31, 2008, November 30, 2008, and 65743
February 28, 2009, the sum of: one-fourth of the amount determined 65744
by subtracting the amount determined under division (A)(1) of this 65745
section from the sum of the amount determined under division 65746
(D)(1) plus three-fifths of the amount determined under division 65747
(D)(3) of section 5751.20 of the Revised Code, but not less than 65748
zero; plus seventy-three one-thousandths of the inventory fixed 65749
rate levy loss certified under division (F) of section 5751.20 of 65750
the Revised Code; 65751

(7) On or before May 31, 2009, the sum of: one-fourth of the 65752
amount determined by subtracting the amount determined under 65753
division (A)(1) of this section from the sum of the amount 65754
determined under division (D)(1) plus four-fifths of the amount 65755
determined under division (D)(3) of section 5751.20 of the Revised 65756
Code, but not less than zero; plus eighty-eight one-thousandths of 65757
the inventory fixed-rate levy loss certified under division (F) of 65758
section 5751.20 of the Revised Code; 65759

(8) On or before August 31, 2009, November 30, 2009, and 65760
February 28, 2010, the sum of: one-fourth of the amount determined 65761
by subtracting the amount determined under division (A)(1) of this 65762
section from the sum of the amount determined under division 65763
(D)(1) plus four-fifths of the amount determined under division 65764
(D)(3) of section 5751.20 of the Revised Code, but not less than 65765

zero; plus one hundred forty-six one-thousandths of the inventory 65766
fixed-rate levy loss certified under division (F) of section 65767
5751.20 of the Revised Code; 65768

(9) On or before May 31, 2010, the sum of one-fourth of the 65769
amount determined by subtracting the amount determined under 65770
division (A)(1) of this section from the sum of the amounts 65771
determined under divisions (D)(1) and (3) of section 5751.20 of 65772
the Revised Code, but not less than zero, and one hundred 65773
thirty-two one-thousandths of the inventory fixed-rate levy loss 65774
certified under division (F) of section 5751.20 of the Revised 65775
Code; 65776

(10) On or before August 31, 2010, November 30, 2010, and 65777
February 28, 2011, the sum of one-fourth of the amount determined 65778
by subtracting the amount determined under division (A)(1) of this 65779
section from the sum of the amounts determined under divisions 65780
(D)(1) and (3) of section 5751.20 of the Revised Code, but not 65781
less than zero, and two hundred nineteen one-thousandths of the 65782
inventory fixed-rate levy loss certified under division (F) of 65783
section 5751.20 of the Revised Code; 65784

(11) On or before May 31, 2011, the sum of one-fourth of the 65785
amount determined by subtracting the amount determined under 65786
division (A)(1) of this section from the sum of the amounts 65787
determined under divisions (D)(1) and (3) of section 5751.20 of 65788
the Revised Code, but not less than zero, and one hundred fourteen 65789
one-thousandths of the inventory fixed-rate levy loss certified 65790
under division (F) of section 5751.20 of the Revised Code; 65791

(12) On or before August 31, 2011, November 30, 2011, 65792
February 29, 2012, and May 31, 2012, two hundred seventeen 65793
one-thousandths of the amount determined under division (A)(2) of 65794
this section; 65795

(13) On or before August 31, 2012, November 30, 2012, 65796

<u>February 28, 2013, and May 31, 2013, one hundred eighty-three</u>	65797
<u>one-thousandths of the amount determined under division (A)(2) of</u>	65798
<u>this section;</u>	65799
<u>(14) On or before August 31, 2013, November 30, 2013,</u>	65800
<u>February 28, 2014, and May 31, 2014, one hundred fifty</u>	65801
<u>one-thousandths of the amount determined under division (A)(2) of</u>	65802
<u>this section;</u>	65803
<u>(15) On or before August 31, 2014, November 30, 2014,</u>	65804
<u>February 28, 2015, and May 31, 2015, one hundred seventeen</u>	65805
<u>one-thousandths of the amount determined in division (A)(2) of</u>	65806
<u>this section;</u>	65807
<u>(16) On or before August 31, 2015, November 30, 2015,</u>	65808
<u>February 29, 2016, and May 31, 2016, eighty-three one-thousandths</u>	65809
<u>of the amount determined under division (A)(2) of this section;</u>	65810
<u>(17) On or before August 31, 2016, November 30, 2016,</u>	65811
<u>February 28, 2017, and May 31, 2017, fifty one-thousandths of the</u>	65812
<u>amount determined under division (A)(2) of this section;</u>	65813
<u>(18) On or before August 31, 2017, November 30, 2017,</u>	65814
<u>February 28, 2018, and May 31, 2018, seventeen one-thousandths of</u>	65815
<u>the amount determined in division (A)(2) of this section;</u>	65816
<u>(19) After May 31, 2018, no payments shall be made under this</u>	65817
<u>section.</u>	65818
<u>The department of education shall report to each school</u>	65819
<u>district and joint vocational school district the apportionment of</u>	65820
<u>the payments among the school district's or joint vocational</u>	65821
<u>school district's funds based on the certifications under division</u>	65822
<u>(F) of section 5751.20 of the Revised Code.</u>	65823
<u>(C) For taxes levied within the ten-mill limitation for debt</u>	65824
<u>purposes in tax year 2005, payments shall be made equal to one</u>	65825
<u>hundred per cent of the loss computed as if the tax were a</u>	65826

fixed-rate levy, but those payments shall extend from fiscal year 65827
2006 through fiscal year 2018. 65828

(D)(1) Not later than January 1, 2006, for each fixed-sum 65829
levy of each school district or joint vocational school district 65830
and for each year for which a determination is made under division 65831
(F) of section 5751.20 of the Revised Code that a fixed-sum levy 65832
loss is to be reimbursed, the tax commissioner shall certify to 65833
the department of education the fixed-sum levy loss determined 65834
under that division. The certification shall cover a time period 65835
sufficient to include all fixed-sum levies for which the 65836
commissioner made such a determination. The department shall pay 65837
from the school district property tax replacement fund to the 65838
school district or joint vocational school district one-fourth of 65839
the fixed-sum levy loss so certified for each year on or before 65840
the last day of May, August, and November of the current year and 65841
of February of the following year. 65842

(2) Beginning in 2006, by the first day of January of each 65843
year, the tax commissioner shall review the certification 65844
originally made under division (D)(1) of this section. If the 65845
commissioner determines that a debt levy that had been scheduled 65846
to be reimbursed in the current year has expired, a revised 65847
certification for that and all subsequent years shall be made to 65848
the department of education. 65849

(E) Beginning in September 2007 and through June 2018, the 65850
director of budget and management shall transfer from the school 65851
district tangible property tax replacement fund to the general 65852
revenue fund each of the following: 65853

(1) On the first day of September, the lesser of one-fourth 65854
of the amount certified for that fiscal year under division (A)(2) 65855
of this section or the balance in the school district tangible 65856
property tax replacement fund; 65857

(2) On the first day of December, the lesser of one-fourth of 65858
the amount certified for that fiscal year under division (A)(2) of 65859
this section or the balance in the school district tangible 65860
property tax replacement fund; 65861

(3) On the first day of March, the lesser of one-fourth of 65862
the amount certified for that fiscal year under division (A)(2) of 65863
this section or the balance in the school district tangible 65864
property tax replacement fund; 65865

(4) On the first day of June, the lesser of one-fourth of the 65866
amount certified for that fiscal year under division (A)(2) of 65867
this section or the balance in the school district tangible 65868
property tax replacement fund. 65869

(F) For each of the fiscal years 2006 through 2018, if the 65870
total amount in the school district tangible property tax 65871
replacement fund is insufficient to make all payments under 65872
divisions (B), (C), or (D) of this section at the times the 65873
payments are to be made, the director of budget and management 65874
shall transfer from the general revenue fund to the school 65875
district tangible property tax replacement fund the difference 65876
between the total amount to be paid and the amount in the school 65877
district tangible property tax replacement fund. For each fiscal 65878
year after 2018, at the time payments under division (D) of this 65879
section are to be made, the director of budget and management 65880
shall transfer from the general revenue fund to the school 65881
district property tax replacement fund the amount necessary to 65882
make such payments. 65883

(G) On the fifteenth day of June of 2006 through 2011, the 65884
director of budget and management may transfer any balance in the 65885
school district tangible property tax replacement fund to the 65886
general revenue fund. At the end of fiscal years 2012 through 65887
2018, any balance in the school district tangible property tax 65888

replacement fund shall remain in the fund to be used in future 65889
fiscal years for school purposes. 65890

(H) If all of the territory of a school district or joint 65891
vocational school district is merged with another district, or if 65892
a part of the territory of a school district or joint vocational 65893
school district is transferred to an existing or newly created 65894
district, the department of education, in consultation with the 65895
tax commissioner, shall adjust the payments made under this 65896
section as follows: 65897

(1) For a merger of two or more districts, the machinery and 65898
equipment, inventory, and furniture and fixture fixed-rate levy 65899
losses and the fixed-sum levy losses of the successor district 65900
shall be equal to the sum of the machinery and equipment, 65901
inventory, and furniture and fixtures fixed-rate levy losses as 65902
determined in section 5751.20 of the Revised Code, for each of the 65903
districts involved in the merger. 65904

(2) If property is transferred from one district to a 65905
previously existing district, the amount of machinery and 65906
equipment, inventory, and furniture and fixtures fixed-rate levy 65907
losses that shall be transferred to the recipient district shall 65908
be an amount equal to the total machinery and equipment, 65909
inventory, and furniture and fixtures fixed-rate levy losses times 65910
a fraction, the numerator of which is the value of business 65911
tangible personal property in the land being transferred in the 65912
most recent year for which data are available, and the denominator 65913
of which is the total value of business tangible personal property 65914
in the district from which the land is being transferred in the 65915
most recent year for which data are available. 65916

(3) After December 31, 2004, if property is transferred from 65917
one or more districts to a district that is newly created out of 65918
the transferred property, the newly created district shall be 65919

deemed not to have any machinery and equipment, inventory, or 65920
furniture and fixtures fixed-rate levy losses and the districts 65921
from which the property was transferred shall have no reduction in 65922
their machinery and equipment, inventory, and furniture and 65923
fixtures fixed-rate levy losses. 65924

(4) If the recipient district under division (H)(2) of this 65925
section or the newly created district under divisions (H)(3) of 65926
this section is assuming debt from one or more of the districts 65927
from which the property was transferred and any of the districts 65928
losing the property had fixed-sum levy losses, the department of 65929
education, in consultation with the tax commissioner, shall make 65930
an equitable division of the fixed-sum levy loss reimbursements. 65931

Sec. 5751.22. (A) Not later than January 1, 2006, the tax 65932
commissioner shall compute the payments to be made to each local 65933
taxing unit for each year according to divisions (A)(1), (2), and 65934
(3) of this section, and shall distribute the payments in the 65935
manner prescribed by division (C) of this section. The calculation 65936
of the fixed-sum levy loss shall cover a time period sufficient to 65937
include all fixed-sum levies for which the commissioner 65938
determined, pursuant to division (E) of section 5751.20 of the 65939
Revised Code, that a fixed-sum levy loss is to be reimbursed. 65940

(1) Except as provided in division (A)(3) of this section, 65941
for machinery and equipment, inventory, and furniture and fixtures 65942
fixed-rate levy losses determined under division (D) of section 65943
5751.20 of the Revised Code, payments shall be made in each of the 65944
following years at the following percentages of the machinery and 65945
equipment, inventory, and furniture and fixtures fixed-rate levy 65946
losses: 65947

<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>	65948
	<u>equipment</u>		<u>fixtures</u>	

<u>2006</u>	<u>50%</u>	<u>0%</u>	<u>20%</u>	65949
<u>2007</u>	<u>100%</u>	<u>0%</u>	<u>40%</u>	65950
<u>2008</u>	<u>100%</u>	<u>26.3%</u>	<u>60%</u>	65951
<u>2009</u>	<u>100%</u>	<u>52.6%</u>	<u>80%</u>	65952
<u>2010</u>	<u>100%</u>	<u>78.9%</u>	<u>100%</u>	65953
<u>2011</u>	<u>86.7%</u>	<u>68.4%</u>	<u>86.7%</u>	65954
<u>2012</u>	<u>73.3%</u>	<u>57.9%</u>	<u>73.3%</u>	65955
<u>2013</u>	<u>60%</u>	<u>47.3%</u>	<u>60%</u>	65956
<u>2014</u>	<u>46.7%</u>	<u>36.8%</u>	<u>46.7%</u>	65957
<u>2015</u>	<u>33.3%</u>	<u>26.3%</u>	<u>33.3%</u>	65958
<u>2016</u>	<u>20%</u>	<u>15.8%</u>	<u>20%</u>	65959
<u>2017</u>	<u>6.7%</u>	<u>5.3%</u>	<u>6.7%</u>	65960
<u>2018 and</u> <u>thereafter</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>	65961

(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. 65962
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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. 65966
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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 65973
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subsequent years shall be made. 65980

(C) Payments to local taxing units required to be made under 65981
division (A) of this section shall be paid from the local 65982
government tangible property tax replacement fund to the county 65983
undivided income tax fund in the proper county treasury. Beginning 65984
in May 2006, one-fourth of the amount certified under that 65985
division shall be paid by the last day of February, May, August, 65986
and November. The county treasurer shall distribute amounts 65987
determined under division (A) of this section to the proper local 65988
taxing unit as if they had been levied and collected as taxes, and 65989
the local taxing unit shall apportion the amounts so received 65990
among its funds in the same proportions as if those amounts had 65991
been levied and collected as taxes. 65992

(D) For each of the fiscal years 2006 through 2018, if the 65993
total amount in the local government tangible property tax 65994
replacement fund is insufficient to make all payments under 65995
division (C) of this section at the times the payments are to be 65996
made, the director of budget and management shall transfer from 65997
the general revenue fund to the local government tangible property 65998
tax replacement fund the difference between the total amount to be 65999
paid and the amount in the local government tangible property tax 66000
replacement fund. For each fiscal year after 2018, at the time 66001
payments under division (A)(2) of this section are to be made, the 66002
director of budget and management shall transfer from the general 66003
revenue fund to the local government property tax replacement fund 66004
the amount necessary to make such payments. 66005

(E) On the fifteenth day of June of each year from 2006 66006
through 2018, the director of budget and management may transfer 66007
any balance in the local government tangible property tax 66008
replacement fund to the general revenue fund. 66009

(F) If all or a part of the territories of two or more local 66010

taxing units are merged, or unincorporated territory of a township 66011
is annexed by a municipal corporation, the tax commissioner shall 66012
adjust the payments made under this section to each of the local 66013
taxing units in proportion to the tax value loss apportioned to 66014
the merged or annexed territory, or as otherwise provided by a 66015
written agreement between the legislative authorities of the local 66016
taxing units certified to the commissioner not later than the 66017
first day of June of the calendar year in which the payment is to 66018
be made. 66019

Sec. 5751.31. Notwithstanding any section of law to the 66020
contrary, the tax commissioner may issue one or more final 66021
determinations under section 5703.60 of the Revised Code for which 66022
any appeal must be made directly to the supreme court within 66023
thirty days after the date the commissioner issued the 66024
determination if the primary issue raised by the petitioner is an 66025
issue arising under Section 3, 5a, or 13 of Article XII, Ohio 66026
Constitution. Such final determination shall clearly indicate that 66027
any appeal thereof must be made directly to the supreme court 66028
within the thirty-day period prescribed in this division. 66029

Sec. 5751.50. (A) For tax years beginning on or after January 66030
1, 2008, a refundable credit granted by the tax credit authority 66031
under section 122.17 of the Revised Code may be claimed under this 66032
chapter in the order required under section 5751.98 of the Revised 66033
Code. For purposes of making tax payments under this chapter, 66034
taxes equal to the amount of the refundable credit shall be 66035
considered to be paid to this state on the first day of the tax 66036
year. A credit claimed in tax year 2008 may not be applied against 66037
the tax otherwise due for a quarterly tax reporting period 66038
beginning before July 1, 2008. The refundable credit shall not be 66039
claimed against the tax otherwise due for any quarterly tax 66040
reporting period beginning after the date on which a relocation of 66041

employment positions occurs in violation of an agreement entered 66042
into under sections 122.17 or 122.171 of the Revised Code. 66043

(B) For tax years beginning on or after January 1, 2008, a 66044
nonrefundable credit granted by the tax credit authority under 66045
section 122.171 of the Revised Code may be claimed under this 66046
chapter in the order required under section 5751.98 of the Revised 66047
Code. A credit claimed in tax year 2008 may not be applied against 66048
the tax otherwise due under this chapter for a quarterly tax 66049
reporting period beginning before July 1, 2008. The credit shall 66050
not be claimed against the tax otherwise due for any quarterly tax 66051
reporting period beginning after the date on which a relocation of 66052
employment positions occurs in violation of an agreement entered 66053
into under sections 122.17 or 122.171 of the Revised Code. No 66054
credit shall be allowed under this chapter if the credit was 66055
available against the tax imposed by section 5733.06 or 5747.02 of 66056
the Revised Code, except to the extent the credit was not applied 66057
against such tax. 66058

Sec. 5751.51. (A) As used in this section, "qualified 66059
research expenses" has the same meaning as in section 41 of the 66060
Internal Revenue Code. 66061

(B)(1) For tax years beginning on or after January 1, 2008, a 66062
nonrefundable credit may be claimed under this chapter equal to 66063
seven per cent of the excess of (a) qualified research expenses 66064
incurred in this state by the taxpayer in the tax year for which 66065
the credit is claimed over (b) the taxpayer's average annual 66066
qualified research expenses incurred in this state for the three 66067
preceding tax years. 66068

(2) The taxpayer shall claim the credit allowed under 66069
division (B)(1) of this section in the order required by section 66070
5751.98 of the Revised Code. A credit claimed in tax year 2008 may 66071

not be applied against the tax otherwise due under this chapter 66072
for a quarterly tax reporting period beginning before July 1, 66073
2008. Any credit amount in excess of the tax due under section 66074
5751.03 of the Revised Code, after allowing for any other credits 66075
that precede the credit under this section in the order required 66076
under that section, may be carried forward for seven tax years, 66077
but the amount of the excess credit claimed against the tax for 66078
any quarterly tax reporting period shall be deducted from the 66079
balance carried forward to the next quarterly tax reporting 66080
period. 66081

(3) No credit shall be allowed under this chapter if the 66082
credit was available against the tax imposed by section 5733.06 of 66083
the Revised Code, except to the extent the credit was not applied 66084
against such tax. 66085

Sec. 5751.52. (A) As used in this section: 66086

(1) "Borrower" means any person that receives a loan from the 66087
director of development under section 166.21 of the Revised Code, 66088
regardless of whether the borrower is subject to the tax imposed 66089
by this chapter. 66090

(2) "Qualified research and development loan payments" has 66091
the same meaning as in section 166.21 of the Revised Code. 66092

(3) "Related member" has the same meaning as in section 66093
5733.042 of the Revised Code. 66094

(B) For tax years beginning on or after January 1, 2008, a 66095
nonrefundable credit may be claimed under this chapter equal to a 66096
borrower's qualified research and development loan payments made 66097
during the tax year immediately preceding the tax year for which 66098
the credit is claimed. The amount of the credit for a tax year 66099
shall not exceed one hundred fifty thousand dollars. No taxpayer 66100
is entitled to claim a credit under this section unless the 66101

taxpayer has obtained a certificate issued by the director of 66102
development under division (D) of section 166.21 of the Revised 66103
Code. The credit shall be claimed in the order required under 66104
section 5151.98 of the Revised Code. A credit claimed in tax year 66105
2008 may not be applied against the tax otherwise due under this 66106
chapter for a quarterly tax reporting period beginning before July 66107
1, 2008. No credit shall be allowed under this chapter if the 66108
credit was available against the tax imposed by section 5733.06 or 66109
5747.02 of the Revised Code except to the extent the credit was 66110
not applied against such tax. The credit, to the extent it exceeds 66111
the taxpayer's tax liability for a quarterly tax reporting period 66112
after allowance for any other credits that precede the credit 66113
under this section in that order, shall be carried forward to the 66114
next succeeding quarterly tax reporting period or periods, but the 66115
amount of the excess credit claimed against the tax for any 66116
quarterly tax reporting period shall be deducted from the balance 66117
carried forward to the next quarterly tax reporting period. 66118

(C) A borrower entitled to a credit under this section may 66119
assign the credit, or a portion thereof, to any of the following: 66120

(1) A related member of that borrower; 66121

(2) The owner or lessee of the eligible research and 66122
development project; 66123

(3) A related member of the owner or lessee of the eligible 66124
research and development project. 66125

A borrower making an assignment under this division shall 66126
provide written notice of the assignment to the tax commissioner 66127
and the director of development, in such form as the commissioner 66128
prescribes, before the credit that was assigned is used. The 66129
assignor may not claim the credit to the extent it was assigned to 66130
an assignee. The assignee may claim the credit only to the extent 66131
the assignor has not claimed it. 66132

(D) If any taxpayer is a partner in a partnership or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer's distributive or proportionate share of the credit available through the partnership or limited liability company. 66133
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Sec. 5751.98. (A) To provide a uniform procedure for calculating the amount of tax due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order: 66138
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(1) The nonrefundable jobs retention credit under division (B) of section 5751.50 of the Revised Code; 66142
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(2) The nonrefundable credit for qualified research expenses under division (B) of section 5751.51 of the Revised Code; 66144
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(3) The nonrefundable credit for a borrower's qualified research and development loan payments under division (B) of section 5751.52 of the Revised Code; 66146
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(4) The refundable jobs creation credit under division (A) of section 5751.50 of the Revised Code. 66149
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(B) For any credit except the credit enumerated in division (A)(4) of this section, the amount of the credit for a tax period 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 the credit. 66151
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Sec. 5751.99. (A) Whoever files a fraudulent refund claim under section 5751.08 of the Revised Code shall be fined the greater of not more than one thousand dollars or the amount of the fraudulent refund requested or imprisoned not more than sixty days, or both. 66157
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(B) Except as provided in this section, whoever violates any section of this chapter, or any rule adopted by the tax commissioner under this chapter, shall be fined not more than five hundred dollars or imprisoned not more than thirty days, or both. 66162
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(C) The penalties provided in this section are in addition to any penalties imposed by the tax commissioner under section 5751.06 of the Revised Code. 66166
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Sec. 5919.31. (A) There is hereby created in the state treasury the national guard benefit fund, which shall consist of such transfers of moneys or receipts as are made in accordance with law. 66169
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(B) If an active duty member of the Ohio national guard chooses to purchase life insurance pursuant to the "Servicemembers' Group Life Insurance Act," 79 Stat. 880 et seq. (1965), 38 U.S.C. 1965 et seq., the adjutant general shall reimburse the member in an amount equal to the premium the member paid pursuant to the act from the national guard benefit fund. 66173
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(C) The adjutant general may request additional money from the controlling board if the money in the fund is not sufficient to reimburse the members for life insurance premiums pursuant to this section. 66179
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(D) The adjutant general may adopt rules pursuant to Chapter 119. of the Revised Code to implement the requirements of this section. 66183
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(E) As used in this section, "active duty member" means a member of the Ohio national guard under active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code. 66186
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Sec. 5919.33. Upon certification of availability of funds by the director of budget and management, the (A) There is hereby created the national guard benefit fund, which shall consist of transfers of moneys and receipts into the fund made in accordance with law. 66191
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(B) The adjutant general shall pay a death benefit of twenty one hundred thousand dollars from the appropriations for operating expenses national guard benefit fund to the beneficiary or beneficiaries of any active duty member of the Ohio national guard who dies while performing state active duty under orders issued by the adjutant general on behalf of the governor, if the beneficiary or beneficiaries has or have been so designated in a written statement as prescribed by the adjutant general. 66196
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(C) As used in this section, "active duty member" means a member of the Ohio national guard under active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code. 66204
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Sec. 5919.341. There is hereby created in the state treasury the national guard scholarship reserve fund. Not later than the first day of September of each fiscal year, the Ohio board of regents shall certify to the director of budget and management the unencumbered balance of the general revenue fund appropriations made in the immediately preceding fiscal year for purposes of the Ohio national guard scholarship program created under division (B) of section 5919.34 of the Revised Code. Upon receipt of the certification, the director may transfer an amount not exceeding the certified amount from the general revenue fund to the national guard scholarship reserve fund. Moneys in the national guard scholarship reserve fund shall be used to pay scholarship obligations in excess of the general revenue fund appropriations 66209
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made for that purpose. Upon request of the adjutant general, the 66222
Ohio board of regents shall seek controlling board approval to 66223
establish appropriations as necessary. 66224

The director may transfer any unencumbered balance from the 66225
national guard scholarship reserve fund to the general revenue 66226
fund. 66227

Sec. 5920.01. (A) The governor shall organize and maintain 66228
within this state on a cadre or reserve basis military forces 66229
capable of being expanded and trained to defend this state 66230
whenever the Ohio national guard, or a part thereof, is employed 66231
so as to leave this state without adequate defense. In case of an 66232
emergency proclaimed by the president, or the Congress of the 66233
United States, or the governor, or caused by enemy action or 66234
imminent danger thereof, the governor, as commander in chief, 66235
shall expand such forces as the exigency of the occasion requires. 66236
Such forces shall be organized and maintained under regulations 66237
which shall not be inconsistent with such regulations as the 66238
secretary of defense prescribes for discipline and training and 66239
shall be composed of officers commissioned and assigned, and such 66240
able-bodied citizens of the state as are accepted therein. Such 66241
forces shall be equipped with suitable uniforms not in violation 66242
of federal laws or contrary to the regulations of the secretary of 66243
defense. Such forces shall be known as the Ohio military reserve. 66244
During the period of organization on a cadre or reserve basis the 66245
commander in chief may fix lesser rates of pay for armory drill 66246
purposes or for service in encampments and maneuvers. In the event 66247
that the regulations of the department of defense are modified so 66248
as to recognize the Ohio military reserve as a part of the Ohio 66249
national guard not subject to induction into federal service, the 66250
laws pertaining to the Ohio national guard shall apply to the Ohio 66251
military reserve and it shall be known as a component of the Ohio 66252

national guard. 66253

(B) The commander of the Ohio military reserve shall report 66254
all expenditures and the use of all funds by the Ohio military 66255
reserve to the general assembly. The commander annually shall 66256
deliver the report, in writing, within three months of the end of 66257
the state fiscal year. 66258

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) 66259
of this section, on and after January 1, 1994, no person shall 66260
operate or maintain a public water system in this state without a 66261
license issued by the director of environmental protection. A 66262
person who operates or maintains a public water system on January 66263
1, 1994, shall obtain an initial license under this section in 66264
accordance with the following schedule: 66265

(1) If the public water system is a community water system, 66266
not later than January 31, 1994; 66267

(2) If the public water system is not a community water 66268
system and serves a nontransient population, not later than 66269
January 31, 1994; 66270

(3) If the public water system is not a community water 66271
system and serves a transient population, not later than January 66272
31, 1995. 66273

A person proposing to operate or maintain a new public water 66274
system after January 1, 1994, in addition to complying with 66275
section 6109.07 of the Revised Code and rules adopted under it, 66276
shall submit an application for an initial license under this 66277
section to the director prior to commencing operation of the 66278
system. 66279

A license or license renewal issued under this section shall 66280
be renewed annually. Such a license or license renewal shall 66281
expire on the thirtieth day of January in the year following its 66282

issuance. A license holder that proposes to continue operating the
public water system for which the license or license renewal was
issued shall apply for a license renewal at least thirty days
prior to that expiration date.

The director shall adopt, and may amend and rescind, rules in
accordance with Chapter 119. of the Revised Code establishing
procedures governing and information to be included on
applications for licenses and license renewals under this section.
Through June 30, ~~2006~~ 2008, each application shall be accompanied
by the appropriate fee established under division (M) of section
3745.11 of the Revised Code, provided that an applicant for an
initial license who is proposing to operate or maintain a new
public water system after January 1, 1994, shall submit a fee that
equals a prorated amount of the appropriate fee established under
that division for the remainder of the licensing year.

(B) Not later than thirty days after receiving a completed
application and the appropriate license fee for an initial license
under division (A) of this section, the director shall issue the
license for the public water system. Not later than thirty days
after receiving a completed application and the appropriate
license fee for a license renewal under division (A) of this
section, the director shall do one of the following:

(1) Issue the license renewal for the public water system;

(2) Issue the license renewal subject to terms and conditions
that the director determines are necessary to ensure compliance
with this chapter and rules adopted under it;

(3) Deny the license renewal if the director finds that the
public water system was not operated in substantial compliance
with this chapter and rules adopted under it.

(C) The director may suspend or revoke a license or license
renewal issued under this section if the director finds that the

public water system was not operated in substantial compliance 66314
with this chapter and rules adopted under it. The director shall 66315
adopt, and may amend and rescind, rules in accordance with Chapter 66316
119. of the Revised Code governing such suspensions and 66317
revocations. 66318

(D)(1) As used in division (D) of this section, "church" 66319
means a fellowship of believers, congregation, society, 66320
corporation, convention, or association that is formed primarily 66321
or exclusively for religious purposes and that is not formed or 66322
operated for the private profit of any person. 66323

(2) This section does not apply to a church that operates or 66324
maintains a public water system solely to provide water for that 66325
church or for a campground that is owned by the church and 66326
operated primarily or exclusively for members of the church and 66327
their families. A church that, on or before March 5, 1996, has 66328
obtained a license under this section for such a public water 66329
system need not obtain a license renewal under this section. 66330

(E) This section does not apply to any public or nonpublic 66331
school that meets minimum standards of the state board of 66332
education that operates or maintains a public water system solely 66333
to provide water for that school. 66334

Sec. 6111.02. As used in this section and sections 6111.021 66335
to 6111.028 and 6111.0210 to 6111.0213 of the Revised Code: 66336

(A) "Category 1 wetland," "category 2 wetland," or "category 66337
3 wetland" means a category 1 wetland, category 2 wetland, or 66338
category 3 wetland, respectively, as described in rule 3745-1-54 66339
of the Administrative Code, as that rule existed on ~~the effective~~ 66340
~~date of this section~~ July 17, 2001, and as determined to be a 66341
category 1, category 2, or category 3 wetland, respectively, 66342
through application of the "Ohio rapid assessment method for 66343

wetlands version 5.0,[#] including the Ohio rapid assessment method 66344
for wetlands version 5.0 quantitative score calibration dated 66345
August 15, 2000, unless an application for a section 401 water 66346
quality certification was submitted prior to February 28, 2001, in 66347
which case the applicant for the permit may elect to proceed in 66348
accordance with Ohio rapid assessment method for wetlands version 66349
4.1. 66350

(B) "Creation" means the establishment of a wetland where one 66351
did not formerly exist and that involves wetland construction on 66352
nonhydric soils. 66353

(C) "Discharge of dredged material" and "discharge of fill 66354
material" have the same meanings as in 33 C.F.R 323.2 as effective 66355
February 16, 2001. 66356

(D) "Dredged material" or "dredge material" means material 66357
that is excavated or dredged from a wetland, including an isolated 66358
wetland, or a stream. "Dredged material" does not include material 66359
resulting from normal farming, silviculture, and ranching 66360
activities, such as plowing, cultivating, seeding, and harvesting, 66361
for production of food, fiber, and forest products. 66362

(E) "Enhancement" means activities conducted in an existing 66363
wetland to improve or repair existing or natural wetland functions 66364
and values of that wetland. 66365

~~(D)~~(F) "Ephemeral stream" means a stream that flows only in 66366
direct response to precipitation in the immediate watershed or in 66367
response to the melting of a cover of snow and ice and that has 66368
channel bottom that is always above the local water table. 66369

(G) "Fill material" means any material that is used to fill 66370
an aquatic area, to replace an aquatic area with dry land, or to 66371
change the bottom elevation of a wetland or stream for any purpose 66372
and that consists of suitable material that is free from toxic 66373
contaminants in other than trace quantities. "Fill material" does 66374

not include either of the following: 66375

(1) Material resulting from normal farming, silviculture, and 66376
ranching activities, such as plowing, cultivating, seeding, and 66377
harvesting, for the production of food, fiber, and forest 66378
products; 66379

(2) Material placed for the purpose of maintenance of 66380
existing structures, including emergency reconstruction of 66381
recently damaged parts of currently serviceable structures such as 66382
dikes, dams, levees, groins, riprap, breakwaters, causeways, and 66383
bridge abutments or approaches, and transportation structures. 66384

~~(E)~~(H) "Filling" means the addition of fill material into a 66385
wetland or stream for the purpose of creating upland, changing the 66386
bottom elevation of the wetland or stream, or creating 66387
impoundments of water. "Filling" includes, without limitation, the 66388
placement of the following in wetlands or streams: fill material 66389
that is necessary for the construction of any structure; 66390
structures or impoundments requiring rock, sand, dirt, or other 66391
material for its construction; site-development fills for 66392
recreational, industrial, commercial, residential, or other uses; 66393
causeways or road fills; dams and dikes; artificial islands, 66394
property protection, or reclamation devices such as riprap, 66395
groins, seawalls, breakwalls, and bulkheads and fills; beach 66396
nourishment; levees; sanitary landfills; fill material for 66397
structures such as sewage treatment facilities, intake and outfall 66398
pipes associated with power plants, and underwater utility lines; 66399
and artificial reefs. 66400

~~(F)~~(I) "Intermittent stream" means a stream that is below the 66401
local water table and flows for at least a part of each year and 66402
that obtains its flow from both surface runoff and ground water 66403
discharge. 66404

(J) "Isolated wetland" means a wetland that is not subject to 66405

regulation under the Federal Water Pollution Control Act. 66406

~~(G)~~(K) "Mitigation" means the restoration, creation, 66407
enhancement, or, in exceptional circumstances, preservation of 66408
wetlands or streams, as applicable, expressly for the purpose of 66409
compensating for wetland or stream impacts. 66410

~~(H)~~(L) "Mitigation bank service area" means the designated 66411
area where a mitigation bank can reasonably be expected to provide 66412
appropriate compensation for impacts to wetlands and other aquatic 66413
resources and that is designated as such in accordance with the 66414
process established in the "Federal Guidance for the 66415
Establishment, Use and Operation of Mitigation Banks (1995)," 60 66416
FR 58605. 66417

~~(I)~~(M) "Off-site mitigation" means wetland restoration, 66418
creation, enhancement, or preservation occurring farther than one 66419
mile from a project boundary, but within the same watershed. 66420

~~(J)~~(N) "On-site mitigation" means wetland restoration, 66421
creation, enhancement, or preservation occurring within and not 66422
more than one mile from the project boundary and within the same 66423
watershed. 66424

~~(K)~~(O) "Perennial stream" means a stream or a part of a 66425
stream that flows continuously during all of the calendar year as 66426
a result of ground water discharge or surface water runoff. 66427
"Perennial stream" does not include an intermittent stream or an 66428
ephemeral stream. 66429

(P) "Practicable" means available and capable of being 66430
executed with existing technology and without significant adverse 66431
effect on the economic feasibility of the project in light of the 66432
overall project purposes and in consideration of the relative 66433
environmental benefit. 66434

~~(L)~~(Q) "Preservation" means the protection of ecologically 66435
important wetlands in perpetuity through the implementation of 66436

appropriate legal mechanisms to prevent harm to the wetlands. 66437

"Preservation" may include protection of adjacent upland areas as 66438

necessary to ensure protection of a wetland. 66439

~~(M)~~(R) "Restoration" means the reestablishment of a 66440

previously existing wetland at a site where it has ceased to 66441

exist. 66442

~~(N)~~(S) "Section 401 water quality certification" means 66443

certification pursuant to section 401 of the Federal Water 66444

Pollution Control Act and this chapter and rules adopted under it 66445

that any discharge, as set forth in section 401, will comply with 66446

sections 301, 302, 303, 306, and 307 of the Federal Water 66447

Pollution Control Act. 66448

(T) "State isolated wetland permit" means a permit issued in 66449

accordance with sections 6111.02 to 6111.027 of the Revised Code 66450

authorizing the filling of an isolated wetland. 66451

~~(O)~~(U) "Watershed" means a common surface drainage area 66452

corresponding to one from the list of thirty-seven adapted from 66453

the forty-four cataloging units as depicted on the hydrologic unit 66454

map of Ohio, United States geological survey, 1988, and as 66455

described in division (F)(2) of rule 3745-1-54 of the 66456

Administrative Code or as otherwise shown on map number 1 found in 66457

rule 3745-1-54 of the Administrative Code. "Watershed" is limited 66458

to those parts of the cataloging units that geographically lie 66459

within the borders of this state. 66460

~~(P)~~(V) "Wetlands" means those areas that are inundated or 66461

saturated by surface or ground water at a frequency and duration 66462

that are sufficient to support, and that under normal 66463

circumstances do support, a prevalence of vegetation typically 66464

adapted for life in saturated soil conditions. "Wetlands" includes 66465

swamps, marshes, bogs, and similar areas that are delineated in 66466

accordance with the 1987 United States army corps of engineers 66467

wetland delineation manual and any other procedures and 66468
requirements adopted by the United States army corps of engineers 66469
for delineating wetlands. 66470

~~(Q)~~(W) "Wetland mitigation bank" means a site where wetlands 66471
have been restored, created, enhanced, or, in exceptional 66472
circumstances, preserved expressly for the purpose of providing 66473
mitigation for impacts to wetlands and that has been approved in 66474
accordance with the process established in the "Federal Guidance 66475
for the Establishment, Use and Operation of Mitigation Banks 66476
(1995)," 60 FR 58605. 66477

Sec. 6111.0210. (A) Sections 6111.0210 and 6111.0211 of the 66478
Revised Code apply to wetlands that are not isolated wetlands. 66479

(B) The discharge of dredge or fill material into a category 66480
1 or a category 2 wetland of three acres or less or such a 66481
discharge impacting a portion of an ephemeral stream of one 66482
thousand linear feet or less, a portion of an intermittent stream 66483
of five hundred linear feet or less, or a portion of a perennial 66484
stream of one hundred linear feet or less shall require a section 66485
401 water quality certification issued by the director of 66486
environmental protection and shall be subject to level one review 66487
requirements established under division (C) of this section. 66488

(C) Level one review shall apply only to the discharge of 66489
dredge or fill material into a category 1 or category 2 wetland or 66490
an ephemeral, intermittent, or perennial stream, as applicable, as 66491
described in division (B) of this section. A level one review 66492
shall require, and is limited to, the submission of a pre-activity 66493
notice that includes an application; an acceptable delineation; a 66494
wetland or stream categorization, as applicable; a description of 66495
the project; a description of the acreage of the wetland or of the 66496
linear footage of the stream, as applicable, that will be subject 66497
to dredging or filling; site photographs; and a mitigation 66498

proposal for the impact to the wetland or stream, as applicable, 66499
that includes both of the following: 66500

(1) The submission of an analysis of technically feasible and 66501
economically reasonable on-site alternatives to the proposed 66502
dredging or filling of the wetland or stream, as applicable, that 66503
would have a less adverse impact on the wetland ecosystem; 66504

(2) The submission of information indicating whether high 66505
quality waters, as defined in rule 3745-1-05 of the Administrative 66506
Code, are to be avoided by the proposed dredging or filling of the 66507
wetland or stream, as applicable. 66508

(D) The director shall grant or deny a section 401 water 66509
quality certification for the proposed dredging or filling of a 66510
wetland or stream that is subject to level one review not later 66511
than one hundred twenty days after receipt of an application for 66512
the certification. The director shall issue a section 401 water 66513
quality certification after a level one review unless the director 66514
determines that the applicant has failed to demonstrate all of the 66515
following: 66516

(1) There is no technically feasible and economically 66517
reasonable on-site alternative to the proposed dredging or filling 66518
that would have a less adverse impact on the wetland or stream 66519
ecosystem. 66520

(2) Reasonable buffers have been provided for any wetland or 66521
stream that will be avoided at the site where the proposed 66522
dredging or filling will take place. 66523

(3) The wetland or stream is not locally or regionally scarce 66524
within the watershed in which it is located and does not contain 66525
endangered species. 66526

(4) The impact would not result in significant degradation to 66527
the aquatic ecosystem. 66528

(5) Appropriate mitigation has been proposed for any 66529
unavoidable impacts. 66530

(6) Storm water and water quality controls will be installed 66531
to ensure that peak post-development rates of surface water runoff 66532
from the impacted wetland or stream do not greatly exceed the peak 66533
pre-development rates of surface water runoff from the wetland or 66534
stream. Water quality improvement measures shall be incorporated 66535
into the design of the storm water control measures that are 66536
required by laws of this state and federal law. 66537

(7) Any additional, technically feasible and economically 66538
reasonable, site-specific requirements that are determined 66539
necessary by the director to protect water quality have been 66540
satisfied. 66541

(E) Mitigation for the proposed dredging or filling of a 66542
wetland or stream that is subject to level one review shall be 66543
conducted by the applicant. Without the objection of the director 66544
and at the discretion of the applicant, the applicant shall 66545
conduct either on-site mitigation, mitigation at a wetland 66546
mitigation bank within the same United States army corps of 66547
engineers district as the location of the proposed dredging or 66548
filling of the wetland or stream, or off-site mitigation. 66549

Sec. 6111.0211. (A) The discharge of dredge or fill material 66550
into a category 1 or category 2 wetland of greater than three 66551
acres or a category 3 wetland or such a discharge impacting a 66552
portion of an ephemeral stream of greater than one thousand linear 66553
feet, a portion of an intermittent stream greater than five 66554
hundred linear feet, or a portion of a perennial stream of greater 66555
than one hundred linear feet shall require a section 401 water 66556
quality certification issued by the director of environmental 66557
protection and shall be subject to level two review requirements 66558
established under division (B) of this section. 66559

(B) Level two review shall apply to the discharge of dredge or fill material into a category 1, category 2, or category 3 wetland or an ephemeral, intermittent, or perennial stream described in division (A) of this section and shall require all of the following:

(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;

(2) A full antidegradation review conducted in accordance with rules adopted under section 6111.12 of the Revised Code;

(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 dredging or filling of the wetland or stream, as applicable.

(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.

(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.

(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 adopted under it. 66591
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(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. 66596
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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: 66604
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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; 66608
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(2) Technically feasible and economically reasonable off-site mitigation within the same watershed; 66612
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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; 66614
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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 66617
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or stream is located.

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Sec. 6111.0212. (A) Not later than fifteen business days after the receipt of an application for a section 401 water quality certification, the director of environmental protection shall notify the applicant if the application is complete. If the application is not complete, the director shall include in the notice an itemized list of the information or materials that are necessary to complete the application. Time periods specified in statute or rule shall be tolled until the application is determined by the director to be complete.

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(B) Not later than twenty-one days after the receipt of a complete application, the director shall publish notice of its receipt in a newspaper of general circulation in the county in which the proposed project that is the subject of the application is to take place. The notice shall contain only the following:

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(1) The name of the applicant;

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(2) The proposed location of the project;

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(3) A description of the proposed impact;

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(4) The proposed mitigation of the impact.

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The director shall accept comments concerning the application and requests for a public hearing concerning the application for not more than fifteen days following the publication of notice concerning the application.

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(C) If the director receives a request for a public hearing on the application and the director determines that there is significant public interest in such a hearing as evidenced by the public comments received concerning the application and other requests for a public hearing on the application, the director or the director's representative shall conduct a public hearing

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concerning the application. Notice of the public hearing shall be 66652
published not later than thirty days prior to the date of the 66653
hearing in a newspaper of general circulation in the county in 66654
which the project that is the subject of the application is to 66655
take place. If a public hearing is requested concerning an 66656
application, the director shall accept comments concerning the 66657
application until five business days after the public hearing. A 66658
public hearing conducted under this division shall take place not 66659
later than seventy days after the receipt of the application. 66660

Sec. 6111.0213. All wetland, stream, or lake mitigation 66661
standards, scientific methods, processes, and other procedures or 66662
policies that are used by or approved for use by the director of 66663
environmental protection to evaluate or measure or to determine 66664
the approval or denial of a mitigation proposal shall be subject 66665
to sections 119.03 and 119.032 of the Revised Code before the 66666
standards, scientific methods, processes, or other procedures or 66667
policies have the force of law. Until that time, any such 66668
mitigation standards, scientific methods, processes, or any other 66669
procedures or policies that are used by or approved for use by the 66670
director to evaluate, measure, or determine the success, approval, 66671
or denial of a mitigation proposal, but that have not been subject 66672
to review under sections 119.03 and 119.032 of the Revised Code 66673
shall not be used as the basis for any certification or permit 66674
denial or as a standard applied to mitigation. All wetland 66675
restoration or creation performed for mitigation of wetland 66676
impacts authorized by the director shall result in the restoration 66677
or creation of wetlands that meet or exceed the quality of the 66678
wetland impacted as measured by the Ohio rapid assessment method. 66679

Section 101.02. That existing sections 9.06, 9.24, 9.833, 66680
9.90, 101.68, 102.01, 105.41, 108.05, 109.57, 109.572, 109.91, 66681
117.10, 117.16, 120.06, 120.13, 120.23, 120.52, 120.53, 121.37, 66682

121.38, 122.011, 122.17, 122.171, 122.603, 122.71, 122.72, 122.73, 66683
122.74, 122.75, 122.751, 122.76, 122.77, 122.78, 122.79, 122.82, 66684
122.83, 123.152, 123.17, 125.041, 125.05, 125.831, 125.832, 66685
126.25, 127.16, 131.02, 131.23, 133.09, 140.01, 140.08, 141.011, 66686
141.04, 145.01, 145.33, 147.05, 147.10, 147.11, 147.12, 147.371, 66687
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3301.32, 3301.86, 3301.88, 3311.19, 3313.12, 3313.202, 3313.207, 66704
3313.208, 3313.209, 3313.33, 3313.489, 3313.975, 3313.976, 66705
3313.977, 3313.978, 3313.98, 3314.013, 3314.015, 3314.02, 66706
3314.021, 3314.03, 3314.06, 3314.074, 3314.08, 3314.13, 3315.17, 66707
3315.18, 3315.37, 3316.06, 3316.16, 3317.01, 3317.012, 3317.013, 66708
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3333.38, 3334.01, 3334.02, 3334.03, 3334.07, 3334.08, 3334.09, 66716
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5733.49, 5739.01, 5739.02, 5739.025, 5739.10, 5741.02, 5743.01, 66764
5743.02, 5743.03, 5743.05, 5743.071, 5743.08, 5743.14, 5743.15, 66765
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5743.62, 5743.63, 5747.01, 5747.02, 5747.05, 5747.08, 5747.331, 66767
5747.70, 5747.80, 5747.98, 5748.01, 5748.02, 5748.03, 5748.04, 66768
5748.08, 5749.02, 5919.33, 5920.01, 6109.21, and 6111.02 of the 66769
Revised Code are hereby repealed. 66770

Section 105.01. That sections 181.53, 339.77, 742.36, 66771
1541.221, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 3301.37, 66772
3301.38, 3301.80, 3301.85, 3301.87, 3311.40, 3317.0213, 3353.02, 66773
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3901.784, 5101.751, 5101.753, 5101.754, 5111.041, 5111.205, 66775
5111.262, 5111.34, 5115.10, 5115.11, 5115.12, 5115.13, 5115.14, 66776
5123.041, 5123.048, 5571.13, 5731.20, 5733.122, and 6111.028 of 66777

the Revised Code are hereby repealed. 66778

Section 120.07. That sections 3215.18, 5101.35, 5101.80, 66779
5101.801, and 5153.16 of the Revised Code be further amended to 66780
read as follows: 66781

Sec. 3125.18. A child support enforcement agency shall 66782
administer a Title IV-A program identified under division 66783
(A) ~~(3)~~ (4) (c) or ~~(e)~~ (f) of section 5101.80 of the Revised Code that 66784
the department of job and family services provides for the agency 66785
to administer under the department's supervision pursuant to 66786
section 5101.801 of the Revised Code. 66787

Sec. 5101.35. (A) As used in this section: 66788

(1) "Agency" means the following entities that administer a 66789
family services program: 66790

(a) The department of job and family services; 66791

(b) A county department of job and family services; 66792

(c) A public children services agency; 66793

(d) A private or government entity administering, in whole or 66794
in part, a family services program for or on behalf of the 66795
department of job and family services or a county department of 66796
job and family services or public children services agency. 66797

(2) "Appellant" means an applicant, participant, former 66798
participant, recipient, or former recipient of a family services 66799
program who is entitled by federal or state law to a hearing 66800
regarding a decision or order of the agency that administers the 66801
program. 66802

(3) "Family services program" means assistance provided under 66803
a Title IV-A program as defined in section 5101.80 of the Revised 66804

Code or under Chapter 5104., 5111., or 5115. or section 173.35, 66805
5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the 66806
Revised Code, other than assistance provided under section 5101.46 66807
of the Revised Code by the department of mental health, the 66808
department of mental retardation and developmental disabilities, a 66809
board of alcohol, drug addiction, and mental health services, or a 66810
county board of mental retardation and developmental disabilities. 66811

(B) Except as provided by division (G) of this section, an 66812
appellant who appeals under federal or state law a decision or 66813
order of an agency administering a family services program shall, 66814
at the appellant's request, be granted a state hearing by the 66815
department of job and family services. This state hearing shall be 66816
conducted in accordance with rules adopted under this section. The 66817
state hearing shall be tape-recorded, but neither the recording 66818
nor a transcript of the recording shall be part of the official 66819
record of the proceeding. A state hearing decision is binding upon 66820
the agency and department, unless it is reversed or modified on 66821
appeal to the director of job and family services or a court of 66822
common pleas. 66823

(C) Except as provided by division (G) of this section, an 66824
appellant who disagrees with a state hearing decision may make an 66825
administrative appeal to the director of job and family services 66826
in accordance with rules adopted under this section. This 66827
administrative appeal does not require a hearing, but the director 66828
or the director's designee shall review the state hearing decision 66829
and previous administrative action and may affirm, modify, remand, 66830
or reverse the state hearing decision. Any person designated to 66831
make an administrative appeal decision on behalf of the director 66832
shall have been admitted to the practice of law in this state. An 66833
administrative appeal decision is the final decision of the 66834
department and is binding upon the department and agency, unless 66835
it is reversed or modified on appeal to the court of common pleas. 66836

(D) An agency shall comply with a decision issued pursuant to 66837
division (B) or (C) of this section within the time limits 66838
established by rules adopted under this section. If a county 66839
department of job and family services or a public children 66840
services agency fails to comply within these time limits, the 66841
department may take action pursuant to section 5101.24 of the 66842
Revised Code. If another agency fails to comply within the time 66843
limits, the department may force compliance by withholding funds 66844
due the agency or imposing another sanction established by rules 66845
adopted under this section. 66846

(E) An appellant who disagrees with an administrative appeal 66847
decision of the director of job and family services or the 66848
director's designee issued under division (C) of this section may 66849
appeal from the decision to the court of common pleas pursuant to 66850
section 119.12 of the Revised Code. The appeal shall be governed 66851
by section 119.12 of the Revised Code except that: 66852

(1) The person may appeal to the court of common pleas of the 66853
county in which the person resides, or to the court of common 66854
pleas of Franklin county if the person does not reside in this 66855
state. 66856

(2) The person may apply to the court for designation as an 66857
indigent and, if the court grants this application, the appellant 66858
shall not be required to furnish the costs of the appeal. 66859

(3) The appellant shall mail the notice of appeal to the 66860
department of job and family services and file notice of appeal 66861
with the court within thirty days after the department mails the 66862
administrative appeal decision to the appellant. For good cause 66863
shown, the court may extend the time for mailing and filing notice 66864
of appeal, but such time shall not exceed six months from the date 66865
the department mails the administrative appeal decision. Filing 66866
notice of appeal with the court shall be the only act necessary to 66867

vest jurisdiction in the court. 66868

(4) The department shall be required to file a transcript of 66869
the testimony of the state hearing with the court only if the 66870
court orders the department to file the transcript. The court 66871
shall make such an order only if it finds that the department and 66872
the appellant are unable to stipulate to the facts of the case and 66873
that the transcript is essential to a determination of the appeal. 66874
The department shall file the transcript not later than thirty 66875
days after the day such an order is issued. 66876

(F) The department of job and family services shall adopt 66877
rules in accordance with Chapter 119. of the Revised Code to 66878
implement this section, including rules governing the following: 66879

(1) State hearings under division (B) of this section. The 66880
rules shall include provisions regarding notice of eligibility 66881
termination and the opportunity of an appellant appealing a 66882
decision or order of a county department of job and family 66883
services to request a county conference with the county department 66884
before the state hearing is held. 66885

(2) Administrative appeals under division (C) of this 66886
section; 66887

(3) Time limits for complying with a decision issued under 66888
division (B) or (C) of this section; 66889

(4) Sanctions that may be applied against an agency under 66890
division (D) of this section. 66891

(G) The department of job and family services may adopt rules 66892
in accordance with Chapter 119. of the Revised Code establishing 66893
an appeals process for an appellant who appeals a decision or 66894
order regarding a Title IV-A program identified under division 66895
(A)~~(3)~~(4)(c), (d), ~~or~~ (e), or (f) of section 5101.80 of the 66896
Revised Code that is different from the appeals process 66897

established by this section. The different appeals process may 66898
include having a state agency that administers the Title IV-A 66899
program pursuant to an interagency agreement entered into under 66900
section 5101.801 of the Revised Code administer the appeals 66901
process. 66902

(H) The requirements of Chapter 119. of the Revised Code 66903
apply to a state hearing or administrative appeal under this 66904
section only to the extent, if any, specifically provided by rules 66905
adopted under this section. 66906

Sec. 5101.80. (A) As used in this section and in section 66907
5101.801 of the Revised Code: 66908

(1) "County family services agency" has the same meaning as 66909
in section 307.981 of the Revised Code. 66910

(2) "State agency" has the same meaning as in section 9.82 of 66911
the Revised Code. 66912

(3) "Title IV-A administrative agency" means both of the 66913
following: 66914

(a) A county family services agency or state agency 66915
administering a Title IV-A program under the supervision of the 66916
department of job and family services; 66917

(b) A government agency or private, not-for-profit entity 66918
administering a project funded in whole or in part with funds 66919
provided under the Title IV-A demonstration program created under 66920
section 5101.803 of the Revised Code. 66921

(4) "Title IV-A program" means all of the following that are 66922
funded in part with funds provided under the temporary assistance 66923
for needy families block grant established by Title IV-A of the 66924
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as 66925
amended: 66926

(a) The Ohio works first program established under Chapter 66927

5107. of the Revised Code;	66928
(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;	66929 66930
(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;	66931 66932 66933 66934
(d) The kinship caregiver subsidy program created under section 5101.802 of the Revised Code;	66935 66936
(e) <u>The Title IV-A demonstration program created under section 5101.803 of the Revised Code;</u>	66937 66938
(f) A component of a Title IV-A program identified under divisions (A) (3) (4)(a) to (d) (e) of this section that the Title IV-A state plan prepared under division (C)(1) of this section identifies as a component.	66939 66940 66941 66942
(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 <u>program administrative agencies</u> . No county family services agency or state agency administering a Title IV-A <u>program administrative agency</u> may establish, by rule or otherwise, a policy governing the a 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.	66943 66944 66945 66946 66947 66948 66949 66950 66951 66952 66953 66954
(C) The department of job and family services shall do all of the following:	66955 66956
(1) Prepare and submit to the United States secretary of	66957

health and human services a Title IV-A state plan for Title IV-A programs; 66958
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(2) Prepare and submit to the United States secretary of health and human services amendments to the Title IV-A state plan that the department determines necessary, including amendments necessary to implement Title IV-A programs identified in ~~division~~ divisions (A) ~~(3)(4)(c), (d), and (e)~~ to (f) of this section; 66960
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(3) Prescribe forms for applications, certificates, reports, records, and accounts of ~~county family services agencies and state agencies administering a~~ Title IV-A program administrative agencies, and other matters related to Title IV-A programs; 66965
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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; 66969
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(5) Require reports and information from each ~~county family services agency and state agency administering a~~ Title IV-A program administrative agency as may be necessary or advisable regarding ~~the~~ a Title IV-A program; 66973
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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; 66977
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(7) Administer and expend, pursuant to Chapters 5104., 5107., and 5108. of the Revised Code and sections 5101.801 ~~and~~ 5101.802, and 5101.803 of the Revised Code, any sums appropriated by the general assembly for the purpose of those chapters and 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; 66981
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(8) Conduct investigations and audits as are necessary regarding Title IV-A programs;	66988 66989
(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;	66990 66991 66992
(10) Contract with a private entity to conduct an independent on-going evaluation of the Ohio works first program and the prevention, retention, and contingency program. The contract must require the private entity to do all of the following:	66993 66994 66995 66996
(a) Examine issues of process, practice, impact, and outcomes;	66997 66998
(b) Study former participants of Ohio works first who have not participated in Ohio works first for at least one year to determine whether they are employed, the type of employment in which they are engaged, the amount of compensation they are receiving, whether their employer provides health insurance, whether and how often they have received benefits or services under the prevention, retention, and contingency program, and whether they are successfully self sufficient;	66999 67000 67001 67002 67003 67004 67005 67006
(c) Provide the department with reports at times the department specifies.	67007 67008
(11) Not later than January 1, 2001, and the first day of each January and July thereafter, prepare a report containing information on the following:	67009 67010 67011
(a) Individuals exhausting the time limits for participation in Ohio works first set forth in section 5107.18 of the Revised Code.	67012 67013 67014
(b) Individuals who have been exempted from the time limits set forth in section 5107.18 of the Revised Code and the reasons for the exemption.	67015 67016 67017

~~(12) Not later than January 1, 2001, and on a quarterly basis thereafter until December 1, 2003, prepare, to the extent the necessary data is available to the department, a report based on information determined under section 5107.80 of the Revised Code that states how many former Ohio works first participants entered the workforce during the most recent previous quarter for which the information is known and includes information regarding the earnings of those former participants. The report shall include a county by county breakdown and shall not contain the names or social security numbers of former participants.~~

~~(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 67049
enacted by the general assembly or executive order issued by the 67050
governor establishing the Title IV-A program, a Title IV-A program 67051
identified under division (A)~~(3)~~(4)(c) ~~or~~, (e), or (f) of section 67052
5101.80 of the Revised Code shall provide benefits and services 67053
that are not "assistance" as defined in 45 C.F.R. 260.31(a) and 67054
are benefits and services that 45 C.F.R. 260.31(b) excludes from 67055
the definition of assistance. 67056

(B)(1) Except as otherwise provided by the law enacted by the 67057
general assembly or executive order issued by the governor 67058
establishing the Title IV-A program, the department of job and 67059
family services shall do either of the following regarding a Title 67060
IV-A program identified under division (A)~~(3)~~(4)(c) ~~or~~, (e), or 67061
(f) of section 5101.80 of the Revised Code: 67062

~~(1)~~(a) Administer the program or supervise a county family 67063
services agency's administration of the program; 67064

~~(2)~~(b) Enter into an interagency agreement with a state 67065
agency for the state agency to administer the program under the 67066
department's supervision. 67067

(2) The department may enter into an agreement with a 67068
government entity and, to the extent permitted by federal law, a 67069
private, not-for-profit entity for the entity to receive funding 67070
for a project under the Title IV-A demonstration program. 67071

(C) ~~If the department administers or supervises the 67072
administration of a Title IV-A program identified under division 67073
(A)(3)(c) or (e) of section 5101.80 of the Revised Code pursuant 67074
to division (B)(1) of this section, the~~ The department may adopt 67075
rules governing the program Title IV-A programs identified under 67076
divisions (A)(4)(c), (e), and (f) of section 5101.80 of the 67077
Revised Code. Rules governing financial and operational matters of 67078

the department or between the department and ~~the~~ county family 67079
services ~~agency~~ agencies shall be adopted as internal management 67080
rules adopted in accordance with section 111.15 of the Revised 67081
Code. All other rules shall be adopted in accordance with Chapter 67082
119. of the Revised Code. 67083

(D) If the department enters into an ~~interagency~~ agreement 67084
regarding a Title IV-A program identified under division 67085
(A)~~(3)~~(4)(c) ~~or~~, (e), or (f) of section 5101.80 of the Revised 67086
Code pursuant to division (B)(1)(b) or (2) of this section, the 67087
agreement shall include at least all of the following: 67088

(1) A requirement that the state agency or entity comply with 67089
the requirements for the program or project, including all of the 67090
following requirements established by federal statutes and 67091
regulations, state statutes and rules, the United States office of 67092
management and budget, and the Title IV-A state plan prepared 67093
under section 5101.80 of the Revised Code: 67094

(a) Eligibility; 67095

(b) Reports; 67096

(c) Benefits and services; 67097

(d) Use of funds; 67098

(e) Appeals for applicants for, and recipients and former 67099
recipients of, the benefits and services; 67100

(f) Audits. 67101

(2) A complete description of all of the following: 67102

(a) The benefits and services that the program or project is 67103
to provide; 67104

(b) The methods of program or project administration; 67105

(c) The appeals process under section 5101.35 of the Revised 67106
Code for applicants for, and recipients and former recipients of, 67107

the ~~program's~~ program or project's benefits and services; 67108

(d) Other ~~program and administrative~~ requirements that the 67109
department requires be included. 67110

(3) Procedures for the department to approve a policy, 67111
established by rule or otherwise, that the state agency or entity 67112
establishes for the program or project before the policy is 67113
established; 67114

(4) Provisions regarding how the department is to reimburse 67115
the state agency or entity for allowable expenditures under the 67116
program or project that the department approves, including all of 67117
the following: 67118

(a) Limitations on administrative costs; 67119

(b) The department, at its discretion, ~~withholding~~ doing 67120
either of the following: 67121

(i) Withholding no more than five per cent of the funds that 67122
the department would otherwise provide to the state agency or 67123
entity for the program or ~~charging~~ project; 67124

(ii) Charging the state agency or entity for the costs to the 67125
department of performing, or contracting for the performance of, 67126
audits and other administrative functions associated with the 67127
program or project. 67128

(5) If the state agency or entity arranges by contract, 67129
grant, or other agreement for another entity to perform a function 67130
the state agency or entity would otherwise perform regarding the 67131
program or project, the state ~~agency's~~ agency or entity's 67132
responsibilities for both of the following: 67133

(a) Ensuring that the other entity complies with the 67134
~~interagency~~ agreement between the state agency or entity and 67135
department and federal statutes and regulations and state statutes 67136
and rules governing the use of funds for the program or project; 67137

(b) Auditing the other entity in accordance with requirements 67138
established by the United States office of management and budget. 67139

(6) The state ~~agency's~~ agency or entity's responsibilities 67140
regarding the prompt payment, including any interest assessed, of 67141
any adverse audit finding, final disallowance of federal funds, or 67142
other sanction or penalty imposed by the federal government, 67143
auditor of state, department, a court, or other entity regarding 67144
funds for the program or project; 67145

(7) Provisions for the department to terminate the 67146
~~interagency~~ agreement or withhold reimbursement from the state 67147
agency or entity if either of the following occur: 67148

(a) The federal government disapproves the program or project 67149
or reduces federal funds for the program or project; 67150

(b) The state agency or entity fails to comply with the terms 67151
of the ~~interagency~~ agreement. 67152

(8) Provisions for both of the following: 67153

(a) The department and state agency or entity determining the 67154
performance outcomes expected for the program or project; 67155

(b) An evaluation of the program or project to determine its 67156
success in achieving the performance outcomes determined under 67157
division (D)(8)(a) of this section. 67158

(E) To the extent consistent with the law enacted by the 67159
general assembly or executive order issued by the governor 67160
establishing the Title IV-A program and subject to the approval of 67161
the director of budget and management, the director of job and 67162
family services may terminate a Title IV-A program identified 67163
under division (A)~~(3)~~(4)(c) ~~or~~, (e), or (f) of section 5101.80 of 67164
the Revised Code or reduce funding for the program if the director 67165
of job and family services determines that federal or state funds 67166
are insufficient to fund the program. If the director of budget 67167

and management approves the termination or reduction in funding 67168
for such a program, the director of job and family services shall 67169
issue instructions for the termination or funding reduction. If a 67170
~~county family services agency or state~~ Title IV-A administrative 67171
agency is administering the program, the ~~county family services~~ 67172
~~agency or state~~ agency is bound by the termination or funding 67173
reduction and shall comply with the director's instructions. 67174

(F) The director of job and family services may adopt 67175
internal management rules in accordance with section 111.15 of the 67176
Revised Code as necessary to implement this section. The rules are 67177
binding on each ~~county family services agency and state agency~~ 67178
~~administering, pursuant to this section, a Title IV-A program~~ 67179
~~identified in division (A)(3)(c) or (c) of section 5101.80 of the~~ 67180
~~Revised Code~~ administrative agency. 67181

Sec. 5153.16. (A) Except as provided in section 2151.422 of 67182
the Revised Code, in accordance with rules of the department of 67183
job and family services, and on behalf of children in the county 67184
whom the public children services agency considers to be in need 67185
of public care or protective services, the public children 67186
services agency shall do all of the following: 67187

(1) Make an investigation concerning any child alleged to be 67188
an abused, neglected, or dependent child; 67189

(2) Enter into agreements with the parent, guardian, or other 67190
person having legal custody of any child, or with the department 67191
of job and family services, department of mental health, 67192
department of mental retardation and developmental disabilities, 67193
other department, any certified organization within or outside the 67194
county, or any agency or institution outside the state, having 67195
legal custody of any child, with respect to the custody, care, or 67196
placement of any child, or with respect to any matter, in the 67197
interests of the child, provided the permanent custody of a child 67198

shall not be transferred by a parent to the public children
services agency without the consent of the juvenile court; 67199
67200

(3) Accept custody of children committed to the public
children services agency by a court exercising juvenile
jurisdiction; 67201
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67203

(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; 67204
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67207

(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; 67208
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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; 67211
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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; 67217
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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; 67220
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67222

(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 67223
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the care of children maintained by such municipal corporation or 67229
political subdivision; 67230

(10) Acquire and operate a county children's home, establish, 67231
maintain, and operate a receiving home for the temporary care of 67232
children, or procure certified foster homes for this purpose; 67233

(11) Enter into an agreement with the trustees of any 67234
district children's home, respecting the operation of the district 67235
children's home in cooperation with the other county boards in the 67236
district; 67237

(12) Cooperate with, make its services available to, and act 67238
as the agent of persons, courts, the department of job and family 67239
services, the department of health, and other organizations within 67240
and outside the state, in matters relating to the welfare of 67241
children, except that the public children services agency shall 67242
not be required to provide supervision of or other services 67243
related to the exercise of parenting time rights granted pursuant 67244
to section 3109.051 or 3109.12 of the Revised Code or 67245
companionship or visitation rights granted pursuant to section 67246
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 67247
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 67248
a common pleas court, pursuant to division (E)(6) of section 67249
3113.31 of the Revised Code, requires the provision of supervision 67250
or other services related to the exercise of the parenting time 67251
rights or companionship or visitation rights; 67252

(13) Make investigations at the request of any superintendent 67253
of schools in the county or the principal of any school concerning 67254
the application of any child adjudicated to be an abused, 67255
neglected, or dependent child for release from school, where such 67256
service is not provided through a school attendance department; 67257

(14) Administer funds provided under Title IV-E of the 67258
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 67259

amended, in accordance with rules adopted under section 5101.141 67260
of the Revised Code; 67261

(15) In addition to administering Title IV-E adoption 67262
assistance funds, enter into agreements to make adoption 67263
assistance payments under section 5153.163 of the Revised Code; 67264

(16) Implement a system of risk assessment, in accordance 67265
with rules adopted by the director of job and family services, to 67266
assist the public children services agency in determining the risk 67267
of abuse or neglect to a child; 67268

(17) Enter into a plan of cooperation with the board of 67269
county commissioners under section 307.983 of the Revised Code and 67270
comply with each fiscal agreement the board enters into under 67271
section 307.98 of the Revised Code that include family services 67272
duties of public children services agencies and contracts the 67273
board enters into under sections 307.981 and 307.982 of the 67274
Revised Code that affect the public children services agency; 67275

(18) Make reasonable efforts to prevent the removal of an 67276
alleged or adjudicated abused, neglected, or dependent child from 67277
the child's home, eliminate the continued removal of the child 67278
from the child's home, or make it possible for the child to return 67279
home safely, except that reasonable efforts of that nature are not 67280
required when a court has made a determination under division 67281
(A)(2) of section 2151.419 of the Revised Code; 67282

(19) Make reasonable efforts to place the child in a timely 67283
manner in accordance with the permanency plan approved under 67284
division (E) of section 2151.417 of the Revised Code and to 67285
complete whatever steps are necessary to finalize the permanent 67286
placement of the child; 67287

(20) Administer a Title IV-A program identified under 67288
division (A)~~(3)~~(4)(c) ~~or~~, (e), or (f) of section 5101.80 of the 67289
Revised Code that the department of job and family services 67290

provides for the public children services agency to administer 67291
under the department's supervision pursuant to section 5101.801 of 67292
the Revised Code; 67293

(21) Administer the kinship caregiver subsidy program created 67294
under section 5101.802 of the Revised Code under the supervision 67295
of the director of job and family services; 67296

(22) Provide independent living services pursuant to sections 67297
2151.81 to 2151.84 of the Revised Code. 67298

(B) The public children services agency shall use the system 67299
implemented pursuant to division (B)(16) of this section in 67300
connection with an investigation undertaken pursuant to division 67301
(F)(1) of section 2151.421 of the Revised Code and may use the 67302
system at any other time the agency is involved with any child 67303
when the agency determines that risk assessment is necessary. 67304

(C) Except as provided in section 2151.422 of the Revised 67305
Code, in accordance with rules of the director of job and family 67306
services, and on behalf of children in the county whom the public 67307
children services agency considers to be in need of public care or 67308
protective services, the public children services agency may do 67309
the following: 67310

(1) Provide or find, with other child serving systems, 67311
specialized foster care for the care of children in a specialized 67312
foster home, as defined in section 5103.02 of the Revised Code, 67313
certified under section 5103.03 of the Revised Code; 67314

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 67315
this section, contract with the following for the purpose of 67316
assisting the agency with its duties: 67317

(i) County departments of job and family services; 67318

(ii) Boards of alcohol, drug addiction, and mental health 67319
services; 67320

(iii) County boards of mental retardation and developmental disabilities;	67321 67322
(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;	67323 67324
(v) Private and government providers of services;	67325
(vi) Managed care organizations and prepaid health plans.	67326
(b) A public children services agency contract under division (C)(2)(a) of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not authorized by the department's rules.	67327 67328 67329 67330 67331
(c) Only a county children services board appointed under section 5153.03 of the Revised Code that is a public children services agency may contract under division (C)(2)(a) of this section. If an entity specified in division (B) or (C) of section 5153.02 of the Revised Code is the public children services agency for a county, the board of county commissioners may enter into contracts pursuant to section 307.982 of the Revised Code regarding the agency's duties.	67332 67333 67334 67335 67336 67337 67338 67339
Section 120.08. That existing sections 3215.18, 5101.35, 5101.80, 5101.801, and 5153.16 of the Revised Code are hereby repealed.	67340 67341 67342
Section 120.09. The amendments in sections 120.07 and 120.08 of this act take effect as specified in division (B) of section 612.51 of this act.	67343 67344 67345
Section 200.01. Except as otherwise provided, all appropriation items (AI) in this act are appropriated out of any moneys in the state treasury to the credit of the designated fund	67346 67347 67348

TOTAL AGY Agency Fund Group	\$	497,665,024	\$	572,206,618	67374
TOTAL ALL BUDGET FUND GROUPS	\$	614,569,377	\$	701,112,486	67375

ACCRUED LEAVE LIABILITY FUND 67376

The foregoing appropriation item 995-666, Accrued Leave Fund, 67377
shall be used to make payments from the Accrued Leave Liability 67378
Fund (Fund 806), pursuant to section 125.211 of the Revised Code. 67379
If it is determined by the Director of Budget and Management that 67380
additional amounts are necessary, the amounts are appropriated. 67381

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND 67382

The foregoing appropriation item 995-667, Disability Fund, 67383
shall be used to make payments from the State Employee Disability 67384
Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the 67385
Revised Code. If it is determined by the Director of Budget and 67386
Management that additional amounts are necessary, the amounts are 67387
appropriated. 67388

STATE EMPLOYEE HEALTH BENEFIT FUND 67389

The foregoing appropriation item 995-668, State Employee 67390
Health Benefit Fund, shall be used to make payments from the State 67391
Employee Health Benefit Fund (Fund 808), pursuant to section 67392
124.87 of the Revised Code. If it is determined by the Director of 67393
Budget and Management that additional amounts are necessary, the 67394
amounts are appropriated. 67395

Effective July 1, 2005, or as soon thereafter as possible, 67396
the Director of Budget and Management may transfer up to \$70,000 67397
in cash from the General Revenue Fund to the State Employee Health 67398
Benefit Fund (Fund 808). The amount of the transfer shall not 67399
exceed the amount of cash transferred from the State Employee 67400
Health Benefit Fund to the Health Care Spending Account Fund (Fund 67401
813) during fiscal year 2005. 67402

DEPENDENT CARE SPENDING ACCOUNT 67403

The foregoing appropriation item 995-669, Dependent Care Spending Account, shall be used to make payments from the Dependent Care Spending Account (Fund 809) to employees eligible for dependent care expenses. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

LIFE INSURANCE INVESTMENT FUND

The foregoing appropriation item 995-670, Life Insurance Investment Fund, shall be used to make payments from the Life Insurance Investment Fund (Fund 810) for the costs and expenses of the state's life insurance benefit program pursuant to section 125.212 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

PARENTAL LEAVE BENEFIT FUND

The foregoing appropriation item 995-671, Parental Leave Benefit Fund, shall be used to make payments from the Parental Leave Benefit Fund (Fund 811) to employees eligible for parental leave benefits pursuant to section 124.137 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

HEALTH CARE SPENDING ACCOUNT

There is hereby established in the State Treasury the Health Care Spending Account Fund (Fund 813). The foregoing appropriation item 995-672, Health Care Spending Account, shall be used to make payments from the fund. The fund shall be under the supervision of the Department of Administrative Services and shall be used to make payments pursuant to state employees' participation in a flexible spending account for non-reimbursed health care expenses and pursuant to Section 125 of the Internal Revenue Code. All income derived from the investment of the fund shall accrue to the

fund. If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated.

At the request of the Director of Administrative Services, the Director of Budget and Management shall transfer up to \$400,000 from the State Employee Health Benefit Fund (Fund 808) to the Health Care Spending Account Fund during fiscal years 2006 and 2007. This cash shall be transferred as needed to provide adequate cash flow for the Health Care Spending Account Fund during fiscal year 2006 and fiscal year 2007. At the end of fiscal years 2006 and 2007, the Director of Budget and Management shall transfer cash up to the amount previously transferred in the respective year back from the Health Care Spending Account (Fund 813) to the State Employee Health Benefit Fund (Fund 808). If funds are not available in the Health Care Spending Account Fund, the Director of Administrative Services may request, and the Director of Budget and Management may transfer, the balance of the funds needed from the General Revenue Fund.

Section 203.09. ADJ ADJUTANT GENERAL

General Revenue Fund				67455
GRF 745-401 Ohio Military Reserve	\$	15,188	\$ 15,188	67456
GRF 745-404 Air National Guard	\$	1,939,762	\$ 1,939,762	67457
GRF 745-407 National Guard	\$	1,000,000	\$ 1,000,000	67458
Benefits				
GRF 745-409 Central Administration	\$	3,899,590	\$ 3,899,590	67459
GRF 745-499 Army National Guard	\$	4,086,222	\$ 4,086,222	67460
GRF 745-502 Ohio National Guard	\$	102,973	\$ 102,973	67461
Unit Fund				
TOTAL GRF General Revenue Fund	\$	11,043,735	\$ 11,043,735	67462

General Services Fund Group				67464
534 745-612 Armory Improvements	\$	534,304	\$ 534,304	67465
536 745-620 Camp Perry/Buckeye Inn	\$	1,094,970	\$ 1,094,970	67466
Operations				
537 745-604 Ohio National Guard	\$	219,826	\$ 219,826	67467
Facility Maintenance				
TOTAL GSF General Services Fund	\$	1,849,100	\$ 1,849,100	67468
Group				
Federal Special Revenue Fund Group				67469
3E8 745-628 Air National Guard	\$	12,174,760	\$ 12,174,760	67470
Agreement				
3R8 745-603 Counter Drug	\$	25,000	\$ 25,000	67471
Operations				
341 745-615 Air National Guard	\$	2,424,740	\$ 2,424,740	67472
Base Security				
342 745-616 Army National Guard	\$	8,686,893	\$ 8,686,893	67473
Agreement				
TOTAL FED Federal Special Revenue	\$	23,311,393	\$ 23,311,393	67474
Fund Group				
State Special Revenue Fund Group				67475
5U8 745-613 Community Match	\$	90,000	\$ 91,800	67476
Armories				
528 745-605 Marksmanship	\$	126,078	\$ 128,600	67477
Activities				
TOTAL SSR State Special Revenue	\$	216,078	\$ 220,400	67478
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	36,420,306	\$ 36,424,628	67479
Section 203.12. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES				67481
General Revenue Fund				67482
GRF 100-403 Public School Employee	\$	750,000	\$ 250,000	67483
Benefits				

GRF 100-405	Agency Audit Expenses	\$	329,000	\$	329,000	67484
GRF 100-406	County & University	\$	60,000	\$	60,000	67485
	Human Resources					
	Services					
GRF 100-410	Veterans' Records	\$	69,000	\$	48,600	67486
	Conversion					
GRF 100-418	Web Sites and Business	\$	3,275,280	\$	3,275,280	67487
	Gateway					
GRF 100-419	IT Security	\$	1,636,247	\$	1,636,247	67488
	Infrastructure					
GRF 100-421	OAKS Project	\$	484,000	\$	410,839	67489
	Implementation					
GRF 100-433	State of Ohio Computer	\$	4,991,719	\$	4,991,719	67490
	Center					
GRF 100-439	Equal Opportunity	\$	726,481	\$	728,384	67491
	Certification Programs					
GRF 100-447	OBA - Building Rent	\$	115,740,400	\$	116,091,300	67492
	Payments					
GRF 100-448	OBA - Building	\$	25,393,250	\$	25,647,183	67493
	Operating Payments					
GRF 100-449	DAS - Building	\$	4,160,383	\$	4,170,623	67494
	Operating Payments					
GRF 100-451	Minority Affairs	\$	47,000	\$	47,000	67495
GRF 100-734	Major Maintenance -	\$	50,000	\$	50,000	67496
	State Bldgs					
GRF 102-321	Construction	\$	1,190,959	\$	1,206,779	67497
	Compliance					
GRF 130-321	State Agency Support	\$	2,693,788	\$	2,668,986	67498
	Services					
TOTAL GRF	General Revenue Fund	\$	161,597,507	\$	161,611,940	67499
	General Services Fund Group					67500
112 100-616	DAS Administration	\$	5,221,393	\$	5,299,427	67501
115 100-632	Central Service Agency	\$	466,517	\$	485,178	67502

117	100-644	General Services	\$	6,834,247	\$	7,245,772	67503
		Division - Operating					
122	100-637	Fleet Management	\$	4,025,043	\$	4,032,968	67504
125	100-622	Human Resources	\$	18,293,921	\$	18,210,762	67505
		Division - Operating					
127	100-627	Vehicle Liability	\$	3,344,644	\$	3,344,644	67506
		Insurance					
128	100-620	Collective Bargaining	\$	3,410,952	\$	3,410,952	67507
130	100-606	Risk Management	\$	223,904	\$	223,904	67508
		Reserve					
131	100-639	State Architect's	\$	6,977,274	\$	7,047,427	67509
		Office					
132	100-631	DAS Building	\$	10,721,430	\$	11,066,228	67510
		Management					
133	100-607	IT Services Delivery	\$	81,418,432	\$	80,345,564	67511
188	100-649	Equal Opportunity	\$	993,378	\$	1,010,256	67512
		Division - Operating					
201	100-653	General Services	\$	1,553,000	\$	1,553,000	67513
		Resale Merchandise					
210	100-612	State Printing	\$	5,931,421	\$	5,931,421	67514
229	100-630	IT Governance	\$	18,531,812	\$	17,601,712	67515
4N6	100-617	Major IT Purchases	\$	10,617,166	\$	10,617,166	67516
4P3	100-603	DAS Information	\$	5,902,099	\$	6,117,004	67517
		Services					
427	100-602	Investment Recovery	\$	5,580,208	\$	5,683,564	67518
5C2	100-605	MARCS Administration	\$	9,268,178	\$	9,268,178	67519
5C3	100-608	Skilled Trades	\$	1,406,278	\$	1,434,982	67520
5D7	100-621	Workforce Development	\$	12,000,000	\$	12,000,000	67521
5L7	100-610	Professional	\$	2,700,000	\$	2,700,000	67522
		Development					
5V6	100-619	Employee Educational	\$	936,129	\$	936,129	67523
		Development					
TOTAL GSF General Services Fund							67524

Group	\$	216,357,426	\$	215,566,238	67525
Federal Special Revenue Fund Group					67526
3AJ 100-623 Information Technology	\$	82,048	\$	82,048	67527
Grants					
TOTAL FSR Federal Special Revenue	\$	82,048	\$	82,048	67528
Fund Group					
Agency Fund Group					67529
124 100-629 Payroll Deductions	\$	2,050,000,000	\$	2,050,000,000	67530
TOTAL AGY Agency Fund Group	\$	2,050,000,000	\$	2,050,000,000	67531
Holding Account Redistribution Fund Group					67532
R08 100-646 General Services	\$	20,000	\$	20,000	67533
Refunds					
TOTAL 090 Holding Account					67534
Redistribution Fund Group	\$	20,000	\$	20,000	67535
TOTAL ALL BUDGET FUND GROUPS	\$	2,428,056,981	\$	2,427,280,226	67536

Section 203.12.03. AGENCY AUDIT EXPENSES 67538

The foregoing appropriation item 100-405, Agency Audit 67539
Expenses, shall be used for auditing expenses designated in 67540
division (A)(1) of section 117.13 of the Revised Code for those 67541
state agencies audited on a biennial basis. 67542

Section 203.12.06. OHIO BUILDING AUTHORITY 67543

The foregoing appropriation item 100-447, OBA - Building Rent 67544
Payments, shall be used to meet all payments at the times they are 67545
required to be made during the period from July 1, 2005, to June 67546
30, 2007, by the Department of Administrative Services to the Ohio 67547
Building Authority pursuant to leases and agreements under Chapter 67548
152. of the Revised Code, but limited to the aggregate amount of 67549
\$231,831,700. These appropriations are the source of funds pledged 67550
for bond service charges on obligations issued pursuant to Chapter 67551
152. of the Revised Code. 67552

The foregoing appropriation item 100-448, OBA - Building
Operating Payments, shall be used to meet all payments at the
times that they are required to be made during the period from
July 1, 2005, to June 30, 2007, by the Department of
Administrative Services to the Ohio Building Authority pursuant to
leases and agreements under Chapter 152. of the Revised Code, but
limited to the aggregate amount of \$51,040,433.

The payments to the Ohio Building Authority are for the
purpose of paying the expenses of agencies that occupy space in
the various state facilities. The Department of Administrative
Services may enter into leases and agreements with the Ohio
Building Authority providing for the payment of these expenses.
The Ohio Building Authority shall report to the Department of
Administrative Services and the Office of Budget and Management
not later than five months after the start of a fiscal year the
actual expenses incurred by the Ohio Building Authority in
operating the facilities and any balances remaining from payments
and rentals received in the prior fiscal year. The Department of
Administrative Services shall reduce subsequent payments by the
amount of the balance reported to it by the Ohio Building
Authority.

Section 203.12.09. DAS - BUILDING OPERATING PAYMENTS

The foregoing appropriation item 100-449, DAS - Building
Operating Payments, shall be used to pay the rent expenses of
veterans organizations pursuant to section 123.024 of the Revised
Code in fiscal years 2006 and 2007.

The foregoing appropriation item, 100-449, DAS - Building
Operating Payments, may be used to provide funding for the cost of
property appraisals or building studies that the Department of
Administrative Services may be required to obtain for property
that is being sold by the state or property under consideration to

be renovated or purchased by the state. 67584

Notwithstanding section 125.28 of the Revised Code, the 67585
remaining portion of the appropriation may be used to pay the 67586
operating expenses of state facilities maintained by the 67587
Department of Administrative Services that are not billed to 67588
building tenants. These expenses may include, but are not limited 67589
to, the costs for vacant space and space undergoing renovation, 67590
and the rent expenses of tenants that are relocated due to 67591
building renovations. These payments shall be processed by the 67592
Department of Administrative Services through intrastate transfer 67593
vouchers and placed in the Building Management Fund (Fund 132). 67594

Section 203.12.10. PUBLIC SCHOOL EMPLOYEE HEALTH BENEFITS 67595

The foregoing appropriation item 100-403, Public School 67596
Employee Benefits, shall be used by the Director of Administrative 67597
Services to hire an executive director and an assistant 67598
responsible for providing administrative support to the School 67599
Employee Health Care Board and the public school employee health 67600
insurance program established under section 9.901 of the Revised 67601
Code. 67602

At any time during the biennium, when the Director of 67603
Administrative Services certifies that there is a sufficient 67604
reserve available from premium payments made to the School 67605
Employees Health Care Fund (Fund 815), the Director of Budget and 67606
Management shall transfer \$1,000,000 from the School Employees 67607
Health Care Fund to the General Revenue Fund. 67608

Section 203.12.12. CENTRAL SERVICE AGENCY FUND 67609

The Director of Budget and Management may transfer up to 67610
\$363,851 in fiscal year 2006 from the Occupational Licensing and 67611
Regulatory Fund (Fund 4K9) to the Central Service Agency Fund 67612
(Fund 115). The Director of Budget and Management may transfer up 67613

to \$45,184 in fiscal year 2006 from the State Medical Board 67614
Operating Fund (Fund 5C6) to the Central Service Agency Fund (Fund 67615
115). The Director of Budget and Management may transfer up to 67616
\$625 in fiscal year 2006 from the Motor Vehicle Collision Repair 67617
Registration Fund (Fund 5H9) to the Central Service Agency Fund 67618
(Fund 115). The appropriation item 100-632, Central Service 67619
Agency, shall be used to purchase the necessary equipment, 67620
products, and services to maintain an automated application for 67621
the professional licensing boards, and to support their licensing 67622
functions in fiscal year 2006. The amount of the cash transfers is 67623
appropriated to appropriation item 100-632, Central Service 67624
Agency. 67625

Section 203.12.15. COLLECTIVE BARGAINING ARBITRATION EXPENSES 67626
67627

With approval of the Director of Budget and Management, the 67628
Department of Administrative Services may seek reimbursement from 67629
state agencies for the actual costs and expenses the department 67630
incurs in the collective bargaining arbitration process. The 67631
reimbursements shall be processed through intrastate transfer 67632
vouchers and placed in the Collective Bargaining Fund (Fund 128). 67633

Section 203.12.18. OFFICE OF INFORMATION TECHNOLOGY 67634

The foregoing appropriation item 100-607, IT Service 67635
Delivery, shall be used by the Office of Information Technology to 67636
carry out its responsibilities under section 125.29 of the Revised 67637
Code. The foregoing appropriation item 100-630, IT Governance, 67638
shall be used by the Office of Information Technology to carry out 67639
its responsibilities under section 125.29 of the Revised Code. 67640

As soon as possible on or after July 1, 2005, the Director of 67641
Administrative Services shall certify to the Director of Budget 67642
and Management the amount of cash up to \$5,000,000 to be 67643

transferred from the IT Service Delivery Fund (Fund 133) to the IT Governance Fund (Fund 229). This amount represents a portion of the cash balance in the IT Service Delivery Fund attributable to IT Governance programs. The Director of Budget and Management shall transfer the certified amount.

After final payments are made from fiscal year 2005 encumbrances in the IT Service Delivery Fund (Fund 133), the Department of Administrative Services shall reconcile fiscal year 2005 financial activity in the IT Service Delivery Fund and determine the amount of the fund cash balance due to the IT Governance Fund (Fund 229). The reconciliation shall be done in accordance with federal cost accounting regulations. Not later than June 30, 2006, the Director of Administrative Services shall make a determination of any additional transfers of cash necessary for reconciliation purposes. Upon concurrence with this determination, the Director of Budget and Management may transfer such cash between the IT Service Delivery Fund and the IT Governance Fund.

Section 203.12.21. EQUAL OPPORTUNITY PROGRAM

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the activities supported by the State EEO Fund (Fund 188). These charges shall be deposited to the credit of the State EEO Fund (Fund 188) upon payment made by state agencies, state-supported or state-assisted institutions of higher education, and tax-supported agencies, municipal corporations, and other political subdivisions of the state, for services rendered.

Section 203.12.24. MERCHANDISE FOR RESALE

The foregoing appropriation item 100-653, General Services

Resale Merchandise, shall be used to account for merchandise for 67674
resale, which is administered by the General Services Division. 67675
Deposits to the fund may comprise the cost of merchandise for 67676
resale and shipping fees. 67677

Section 203.12.27. DAS INFORMATION SERVICES 67678

There is hereby established in the State Treasury the DAS 67679
Information Services Fund. The foregoing appropriation item 67680
100-603, DAS Information Services, shall be used to pay the costs 67681
of providing information systems and services in the Department of 67682
Administrative Services. 67683

The Department of Administrative Services shall establish 67684
user charges for all information systems and services that are 67685
allowable in the statewide indirect cost allocation plan submitted 67686
annually to the United States Department of Health and Human 67687
Services. These charges shall comply with federal regulations and 67688
shall be deposited to the credit of the DAS Information Services 67689
Fund (Fund 4P3). 67690

Section 203.12.30. INVESTMENT RECOVERY FUND 67691

Notwithstanding division (B) of section 125.14 of the Revised 67692
Code, cash balances in the Investment Recovery Fund (Fund 427) may 67693
be used to support the operating expenses of the Federal Surplus 67694
Operating Program created in sections 125.84 to 125.90 of the 67695
Revised Code. 67696

Notwithstanding division (B) of section 125.14 of the Revised 67697
Code, cash balances in the Investment Recovery Fund may be used to 67698
support the operating expenses of the State Property Inventory and 67699
Fixed Assets Management System Program. 67700

Of the foregoing appropriation item 100-602, Investment 67701
Recovery, up to \$2,147,024 in fiscal year 2006 and up to 67702

\$2,205,594 in fiscal year 2007 shall be used to pay the operating
expenses of the State Surplus Property Program, the Surplus
Federal Property Program, and the State Property Inventory and
Fixed Assets Management System Program under Chapter 125. of the
Revised Code and this section. If additional appropriations are
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 67734
of the fees and the manner by which the fees shall be collected. 67735
Such user charges shall comply with the applicable cost principles 67736
issued by the federal Office of Management and Budget. All moneys 67737
from user charges and fees shall be deposited in the state 67738
treasury to the credit of the Multi-Agency Radio Communications 67739
System Administration Fund (Fund 5C2), which is hereby established 67740
in the state treasury. All interest income derived from the 67741
investment of the fund shall accrue to the fund. 67742

Section 203.12.36. WORKFORCE DEVELOPMENT FUND 67743

There is hereby established in the state treasury the 67744
Workforce Development Fund (Fund 5D7). The foregoing appropriation 67745
item 100-621, Workforce Development, shall be used to make 67746
payments from the fund. The fund shall be under the supervision of 67747
the Department of Administrative Services, which may adopt rules 67748
with regard to administration of the fund. The fund shall be used 67749
to pay the costs of the Workforce Development Program, established 67750
by Article 37 of the contract between the State of Ohio and 67751
OCSEA/AFSCME, Local 11, effective March 1, 2003, and as modified 67752
by any successor labor contract between the State of Ohio and 67753
OCSEA/AFSCME. The program shall be administered in accordance with 67754
the contract. Revenues shall accrue to the fund as specified in 67755
the contract. The fund may be used to pay direct and indirect 67756
costs of the program that are attributable to staff, consultants, 67757
and service providers. All income derived from the investment of 67758
the fund shall accrue to the fund. 67759

If it is determined by the Director of Administrative 67760
Services that additional appropriation amounts are necessary, the 67761
Director of Administrative Services may request that the Director 67762
of Budget and Management increase such amounts. Such amounts are 67763
hereby appropriated. 67764

Section 203.12.39. PROFESSIONAL DEVELOPMENT FUND 67765

The foregoing appropriation item 100-610, Professional 67766
Development, shall be used to make payments from the Professional 67767
Development Fund (Fund 5L7) under section 124.182 of the Revised 67768
Code. 67769

Section 203.12.42. EMPLOYEE EDUCATIONAL DEVELOPMENT 67770

There is hereby established in the state treasury the 67771
Employee Educational Development Fund (Fund 5V6). The foregoing 67772
appropriation item 100-619, Employee Educational Development, 67773
shall be used to make payments from the fund. The fund shall be 67774
used to pay the costs of the administration of educational 67775
programs per existing collective bargaining agreements with 67776
District 1199, the Health Care and Social Service Union; State 67777
Council of Professional Educators; Ohio Education Association and 67778
National Education Association; the Fraternal Order of Police Ohio 67779
Labor Council, Unit 2; and the Ohio State Troopers Association, 67780
Units 1 and 15. The fund shall be under the supervision of the 67781
Department of Administrative Services, which may adopt rules with 67782
regard to administration of the fund. The fund shall be 67783
administered in accordance with the applicable sections of the 67784
collective bargaining agreements between the State and the 67785
aforementioned unions. The Department of Administrative Services, 67786
with the approval of the Director of Budget and Management, shall 67787
establish charges for recovering the costs of administering the 67788
educational programs. Receipts for these charges shall be 67789
deposited into the Employee Educational Development Fund. All 67790
income derived from the investment of the funds shall accrue to 67791
the fund. 67792

If it is determined by the Director of Administrative 67793
Services that additional appropriation amounts are necessary, the 67794

Director of Administrative Services may request that the Director
of Budget and Management increase such amounts. Such amounts are
hereby appropriated with the approval of the Director of Budget
and Management.

Section 203.12.45. MAJOR IT PURCHASES

The Director of Administrative Services shall compute the
amount of revenue attributable to the amortization of all
equipment purchases and capitalized systems from appropriation
item 100-607, IT Service Delivery; appropriation item 100-617,
Major IT Purchases; and appropriation item CAP-837, Major IT
Purchases, which is recovered by the Department of Administrative
Services as part of the rates charged by the IT Service Delivery
Fund (Fund 133) created in section 125.15 of the Revised Code. The
Director of Budget and Management may transfer cash in an amount
not to exceed the amount of amortization computed from the IT
Service Delivery Fund (Fund 133) to the Major IT Purchases Fund
(Fund 4N6).

Section 203.12.48. INFORMATION TECHNOLOGY ASSESSMENT

The Director of Administrative Services, with the approval of
the Director of Budget and Management, may establish an
information technology assessment for the purpose of recovering
the cost of selected infrastructure and statewide programs. Such
assessment shall comply with applicable cost principles issued by
the federal Office of Management and Budget. The information
technology assessment shall be charged to all organized bodies,
offices, or agencies established by the laws of the state for the
exercise of any function of state government except for the
General Assembly, any legislative agency, the Supreme Court, the
other courts of record in Ohio, or any judicial agency, the
Adjutant General, the Bureau of Workers' Compensation, and

institutions administered by a board of trustees. Any state-entity 67825
exempted by this section may utilize the infrastructure or 67826
statewide program by participating in the information technology 67827
assessment. All charges for the information technology assessment 67828
shall be deposited to the credit of the IT Service Delivery Fund 67829
(Fund 133) created in section 125.15 of the Revised Code. 67830

Section 203.12.51. UNEMPLOYMENT COMPENSATION FUND 67831

Within thirty days after the effective date of this section, 67832
or as soon as possible thereafter, the Director of Administrative 67833
Services shall certify the remaining cash in the Unemployment 67834
Compensation Fund (Fund 113) to the Director of Budget and 67835
Management who shall transfer that amount to the General Revenue 67836
Fund and abolish the Unemployment Compensation Fund (Fund 113). 67837

Section 203.12.54. PAYROLL WITHHOLDING FUND 67838

The foregoing appropriation item 100-629, Payroll Deductions, 67839
shall be used to make payments from the Payroll Withholding Fund 67840
(Fund 124). If it is determined by the Director of Budget and 67841
Management that additional appropriation amounts are necessary, 67842
such amounts are hereby appropriated. 67843

Section 203.12.57. GENERAL SERVICES REFUNDS 67844

The foregoing appropriation item 100-646, General Services 67845
Refunds, shall be used to hold bid guarantee and building plans 67846
and specifications deposits until they are refunded. The Director 67847
of Administrative Services may request that the Director of Budget 67848
and Management transfer cash received for the costs of providing 67849
the building plans and specifications to contractors from the 67850
General Services Refunds Fund to the State Architect's Office Fund 67851
(Fund 131). Prior to the transfer of cash, the Director of 67852
Administrative Services shall certify that such amounts are in 67853

excess of amounts required for refunding deposits and are directly 67854
related to costs of producing building plans and specifications. 67855
If it is determined that additional appropriations are necessary, 67856
such amounts are hereby appropriated. 67857

Section 203.12.60. MULTI-AGENCY RADIO COMMUNICATION SYSTEM 67858
DEBT SERVICE PAYMENTS 67859

The Director of Administrative Services, in consultation with 67860
the Multi-Agency Radio Communication System (MARCS) Steering 67861
Committee and the Director of Budget and Management, shall 67862
determine the share of debt service payments attributable to 67863
spending for MARCS components that are not specific to any one 67864
agency and that shall be charged to agencies supported by the 67865
motor fuel tax. Such share of debt service payments shall be 67866
calculated for MARCS capital disbursements made beginning July 1, 67867
1997. Within thirty days of any payment made from appropriation 67868
item 100-447, OBA - Building Rent Payments, the Director of 67869
Administrative Services shall certify to the Director of Budget 67870
and Management the amount of this share. The Director of Budget 67871
and Management shall transfer such amounts to the General Revenue 67872
Fund from the State Highway Safety Fund (Fund 036) established in 67873
section 4501.06 of the Revised Code. 67874

The Director of Administrative Services shall consider 67875
renting or leasing existing tower sites at reasonable or current 67876
market rates, so long as these existing sites are equipped with 67877
the technical capabilities to support the MARCS project. 67878

Section 203.12.63. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY 67879

Whenever the Director of Administrative Services declares a 67880
"public exigency," as provided in division (C) of section 123.15 67881
of the Revised Code, the Director shall also notify the members of 67882
the Controlling Board. 67883

Section 203.12.66. GENERAL SERVICE CHARGES				67884
The Department of Administrative Services, with the approval				67885
of the Director of Budget and Management, shall establish charges				67886
for recovering the costs of administering the programs in the				67887
General Services Fund (Fund 117) and the State Printing Fund (Fund				67888
210).				67889
Section 203.15. AAM COMMISSION ON AFRICAN AMERICAN MALES				67890
General Revenue Fund				67891
GRF 036-100 Personal Services	\$	220,091	\$ 220,091	67892
GRF 036-200 Maintenance	\$	39,909	\$ 39,909	67893
GRF 036-300 Equipment	\$	1,000	\$ 1,000	67894
GRF 036-501 CAAM Awards and	\$	1,000	\$ 1,000	67895
Scholarships				
GRF 036-502 Community Projects	\$	20,000	\$ 20,000	67896
TOTAL GRF General Revenue Fund	\$	282,000	\$ 282,000	67897
State Special Revenue Fund Group				67898
4H3 036-601 Commission on African	\$	10,000	\$ 10,000	67899
American Males -				
Gifts/Grants				
TOTAL SSR State Special Revenue	\$	10,000	\$ 10,000	67900
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	292,000	\$ 292,000	67901
COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW				67902
Annually, not later than the thirty-first day of December,				67903
the Commission on African American Males shall internally prepare				67904
and submit to the chairperson and ranking minority member of the				67905
Human Services Subcommittee of the Finance and Appropriations				67906
Committee of the House of Representatives a report that				67907
demonstrates the progress that has been made toward meeting the				67908
Commission's mission statement.				67909

Section 203.18. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW				67910
General Revenue Fund				67911
GRF 029-321 Operating Expenses	\$	379,769	\$ 387,364	67912
TOTAL GRF General Revenue Fund	\$	379,769	\$ 387,364	67913
TOTAL ALL BUDGET FUND GROUPS	\$	379,769	\$ 387,364	67914
OPERATING				67915
The Chief Administrative Officer of the House of				67916
Representatives and the Clerk of the Senate shall determine, by				67917
mutual agreement, which of them shall act as fiscal agent for the				67918
Joint Committee on Agency Rule Review.				67919
OPERATING EXPENSES				67920
The unencumbered balance of appropriation item 029-321,				67921
Operating Expenses, at the end of fiscal year 2006 shall be				67922
transferred to fiscal year 2007 for use under the same				67923
appropriation item.				67924
Section 203.21. AGE DEPARTMENT OF AGING				67925
General Revenue Fund				67926
GRF 490-321 Operating Expenses	\$	2,579,867	\$ 2,308,867	67927
GRF 490-403 PASSPORT	\$	112,045,715	\$ 121,009,372	67928
GRF 490-405 Golden Buckeye Card	\$	467,614	\$ 467,614	67929
GRF 490-406 Senior Olympics	\$	15,638	\$ 15,638	67930
GRF 490-409 Ohio Community Service	\$	203,647	\$ 193,465	67931
Council Operations				
GRF 490-410 Long-Term Care	\$	689,437	\$ 689,437	67932
Ombudsman				
GRF 490-411 Senior Community	\$	10,630,988	\$ 10,630,988	67933
Services				
GRF 490-412 Residential State	\$	9,156,771	\$ 9,156,771	67934
Supplement				

GRF 490-414	Alzheimers Respite	\$	4,085,888	\$	4,085,888	67935
GRF 490-416	JCFS Elderly	\$	100,000	\$	100,000	67936
	Transportation					
GRF 490-421	PACE	\$	11,354,145	\$	10,214,809	67937
GRF 490-422	Assisted Living Waiver	\$	0	\$	359,919	67938
GRF 490-506	National Senior	\$	352,943	\$	352,943	67939
	Service Corps					
TOTAL GRF	General Revenue Fund	\$	151,682,653	\$	159,585,711	67940
	General Services Fund Group					67941
480 490-606	Senior Community	\$	372,677	\$	372,677	67942
	Outreach and Education					
TOTAL GSF	General Services Fund					67943
Group		\$	372,677	\$	372,677	67944
	Federal Special Revenue Fund Group					67945
3C4 490-607	PASSPORT	\$	198,683,143	\$	218,196,387	67946
3C4 490-621	PACE-Federal	\$	10,854,083	\$	14,586,135	67947
3C4 490-622	Assisted	\$	0	\$	5,687,374	67948
	Living-Federal					
3M3 490-611	Federal Aging	\$	27,622,693	\$	28,037,034	67949
	Nutrition					
3M4 490-612	Federal Independence	\$	27,907,287	\$	28,325,896	67950
	Services					
3R7 490-617	Ohio Community Service	\$	9,170,000	\$	9,170,000	67951
	Council Programs					
322 490-618	Federal Aging Grants	\$	14,834,354	\$	15,014,494	67952
TOTAL FED	Federal Special Revenue					67953
Fund Group		\$	289,071,560	\$	319,017,320	67954
	State Special Revenue Fund Group					67955
4C4 490-609	Regional Long-Term	\$	910,000	\$	935,000	67956
	Care Ombudsman Program					
4J4 490-610	PASSPORT/Residential	\$	33,263,984	\$	33,263,984	67957
	State Supplement					

4U9	490-602	PASSPORT Fund	\$	4,424,969	\$	4,424,969	67958
5BA	490-620	Ombudsman Support	\$	615,000	\$	0	67959
5K9	490-613	Long Term Care	\$	298,400	\$	620,000	67960
		Consumers Guide					
5W1	490-616	Resident Services	\$	262,500	\$	262,500	67961
		Coordinator Program					
624	490-604	OCSC Community Support	\$	2,500	\$	2,500	67962
TOTAL SSR	State Special Revenue						67963
Fund Group			\$	39,777,353	\$	39,508,953	67964
TOTAL ALL BUDGET FUND GROUPS			\$	480,904,243	\$	518,484,661	67965

Section 203.21.03. PRE-ADMISSION REVIEW FOR NURSING FACILITY 67967
ADMISSION 67968

Pursuant to an interagency agreement, the Department of Job and Family Services shall designate the Department of Aging to perform assessments under sections 173.42 and 5111.204 of the Revised Code. Of the foregoing appropriation item 490-403, PASSPORT, the Department of Aging may use not more than \$2,586,648 in fiscal year 2006 and \$2,651,315 in fiscal year 2007 to perform the assessments for persons not eligible for Medicaid under the department's interagency agreement with the Department of Job and Family Services and to assist individuals in planning for their long-term health care needs.

Section 203.21.06. PASSPORT 67979

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.

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 be used to
assess clients regardless of Medicaid eligibility.

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The Director of Aging shall adopt rules under section 111.15
of the Revised Code governing the nonwaiver funded PASSPORT
program, including client eligibility.

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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.

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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.

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OHIO COMMUNITY SERVICE COUNCIL

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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.

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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

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used for program management for the Office of the State Long-Term	68018
Care Ombudsman created by the Department of Aging under division	68019
(M) of section 173.01 of the Revised Code.	68020
SENIOR COMMUNITY SERVICES	68021
Appropriation item 490-411, Senior Community Services, shall	68022
be used for services designated by the Department of Aging,	68023
including, but not limited to, home-delivered and congregate	68024
meals, transportation services, personal care services, respite	68025
services, adult day services, home repair, care coordination, and	68026
decision support systems. Service priority shall be given to low	68027
income, frail, and cognitively impaired persons 60 years of age	68028
and over. The department shall promote cost sharing by service	68029
recipients for those services funded with block grant funds,	68030
including, when possible, sliding-fee scale payment systems based	68031
on the income of service recipients.	68032
ALZHEIMERS RESPITE	68033
The foregoing appropriation item 490-414, Alzheimers Respite,	68034
shall be used to fund only Alzheimer's disease services under	68035
section 173.04 of the Revised Code.	68036
JCFS ELDERLY TRANSPORTATION	68037
The foregoing appropriation item 490-416, JCFS Elderly	68038
Transportation, shall be used for noncapital expenses related to	68039
transportation services for the elderly that provide access to	68040
such things as healthcare services, congregate meals,	68041
socialization programs, and grocery shopping. The funds shall pass	68042
through and shall be administered by the Area Agencies on Aging.	68043
Agencies receiving funding from appropriation item 490-416,	68044
JCFS Elderly Transportation, shall coordinate services with other	68045
local service agencies.	68046
RESIDENTIAL STATE SUPPLEMENT	68047

Under the Residential State Supplement Program, the amount 68048
used to determine whether a resident is eligible for payment and 68049
for determining the amount per month the eligible resident will 68050
receive shall be as follows: 68051

(A) \$900 for a residential care facility, as defined in 68052
section 3721.01 of the Revised Code; 68053

(B) \$900 for an adult group home, as defined in Chapter 3722. 68054
of the Revised Code; 68055

(C) \$800 for an adult foster home, as defined in Chapter 173. 68056
of the Revised Code; 68057

(D) \$800 for an adult family home, as defined in Chapter 68058
3722. of the Revised Code; 68059

(E) \$800 for an adult community alternative home, as defined 68060
in Chapter 3724. of the Revised Code; 68061

(F) \$800 for an adult residential facility, as defined in 68062
Chapter 5119. of the Revised Code; 68063

(G) \$600 for adult community mental health housing services, 68064
as defined in division (B)(5) of section 173.35 of the Revised 68065
Code. 68066

The Departments of Aging and Job and Family Services shall 68067
reflect these amounts in any applicable rules the departments 68068
adopt under section 173.35 of the Revised Code. 68069

LONG-TERM CARE OMBUDSMAN 68070

The foregoing appropriation item 490-410, Long-Term Care 68071
Ombudsman, shall be used for a program to fund ombudsman program 68072
activities in nursing homes, adult care facilities, boarding 68073
homes, and home and community care services. 68074

TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS 68075

In fiscal year 2006, the Department of Aging may transfer 68076

cash by intrastate transfer vouchers from the foregoing 68077
appropriation items 490-412, Residential State Supplement, and 68078
490-610, PASSPORT/Residential State Supplement, to the Department 68079
of Job and Family Services' Fund 4J5, Home and Community-Based 68080
Services for the Aged Fund. The funds shall be used to make 68081
benefit payments to Residential State Supplement recipients. 68082

TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL 68083
INDEPENDENCE SERVICES, AND FEDERAL AGING GRANTS 68084

Upon written request of the Director of Aging, the Director 68085
of Budget and Management may transfer appropriation authority 68086
among appropriation items 490-611, Federal Aging Nutrition, 68087
490-612, Federal Independence Services, and 490-618, Federal Aging 68088
Grants, in amounts not to exceed 30 per cent of the appropriation 68089
from which the transfer is made. The Department of Aging shall 68090
report a transfer to the Controlling Board at the next regularly 68091
scheduled meeting of the board. 68092

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM 68093

The foregoing appropriation item 490-609, Regional Long-Term 68094
Care Ombudsman Program, shall be used solely to pay the costs of 68095
operating the regional long-term care ombudsman programs. 68096

PASSPORT/RESIDENTIAL STATE SUPPLEMENT 68097

Of the foregoing appropriation item 490-610, 68098
PASSPORT/Residential State Supplement, up to \$2,835,000 each 68099
fiscal year may be used to fund the Residential State Supplement 68100
Program. The remaining available funds shall be used to fund the 68101
PASSPORT program. 68102

TRANSITION PLAN FOR RESIDENTIAL STATE SUPPLEMENT 68103

Subject to approval by the Social Security Administration, of 68104
the foregoing appropriation item 490-610, PASSPORT/Residential 68105
State Supplement, in fiscal year 2007 the Department of Aging 68106

shall transfer to the Ohio Department of Mental Health sufficient 68107
funds to make benefit payments for all Residential State 68108
Supplement recipients who are less than 60 years of age diagnosed 68109
with mental illness, mental retardation, or a developmental 68110
disability and are enrolled in the program on June 30, 2006. 68111

The departments of Aging and Mental Health shall jointly 68112
petition the Social Security Administration to approve changes to 68113
the Residential State Supplement program. Changes proposed by the 68114
two departments shall ensure that Residential State Supplement 68115
program recipients on June 30, 2006, continue to receive benefit 68116
payments as long as they remain in the program. Changes proposed 68117
by the departments of Aging and Mental Health may include 68118
provisions that improve local accountability to county boards of 68119
mental health, maximize available funding, and improve the quality 68120
of residential settings approved for recipients. 68121

Section 203.24. AGR DEPARTMENT OF AGRICULTURE 68122

General Revenue Fund 68123

GRF 700-321	Operating Expenses	\$	2,605,330	\$	2,605,330	68124
GRF 700-401	Animal Disease Control	\$	3,574,506	\$	3,574,506	68125
GRF 700-403	Dairy Division	\$	1,304,504	\$	1,304,504	68126
GRF 700-404	Ohio Proud	\$	185,395	\$	185,395	68127
GRF 700-405	Animal Damage Control	\$	60,000	\$	60,000	68128
GRF 700-406	Consumer Analytical	\$	819,907	\$	819,907	68129
	Lab					
GRF 700-407	Food Safety	\$	939,099	\$	939,099	68130
GRF 700-409	Farmland Preservation	\$	241,573	\$	241,573	68131
GRF 700-410	Plant Industry	\$	391,216	\$	50,000	68132
GRF 700-411	International Trade	\$	517,524	\$	517,524	68133
	and Market Development					
GRF 700-413	Gypsy Moth Prevention	\$	200,000	\$	200,000	68134
GRF 700-415	Poultry Inspection	\$	251,678	\$	251,678	68135

GRF 700-418	Livestock Regulation Program	\$ 1,228,496	\$ 1,228,496	68136
GRF 700-424	Livestock Testing and Inspections	\$ 115,946	\$ 115,946	68137
GRF 700-499	Meat Inspection Program - State Share	\$ 4,696,889	\$ 4,696,889	68138
GRF 700-501	County Agricultural Societies	\$ 358,226	\$ 358,226	68139
TOTAL GRF	General Revenue Fund	\$ 17,490,289	\$ 17,149,073	68140
Federal Special Revenue Fund Group				68141
3J4 700-607	Indirect Cost	\$ 1,500,027	\$ 1,500,027	68142
3R2 700-614	Federal Plant Industry	\$ 4,800,000	\$ 4,800,000	68143
326 700-618	Meat Inspection Program - Federal Share	\$ 5,201,291	\$ 5,201,291	68144
336 700-617	Ohio Farm Loan Revolving Fund	\$ 43,793	\$ 44,679	68145
382 700-601	Cooperative Contracts	\$ 4,300,000	\$ 4,300,000	68146
TOTAL FED	Federal Special Revenue Fund Group	\$ 15,845,111	\$ 15,845,997	68147 68148
State Special Revenue Fund Group				68149
4C9 700-605	Feed, Fertilizer, Seed, and Lime Inspection	\$ 1,922,857	\$ 1,891,395	68150
4D2 700-609	Auction Education	\$ 23,885	\$ 24,601	68151
4E4 700-606	Utility Radiological Safety	\$ 73,059	\$ 73,059	68152
4P7 700-610	Food Safety Inspection	\$ 816,096	\$ 858,096	68153
4R0 700-636	Ohio Proud Marketing	\$ 38,300	\$ 38,300	68154
4R2 700-637	Dairy Industry Inspection	\$ 1,541,466	\$ 1,621,460	68155
4T6 700-611	Poultry and Meat	\$ 47,294	\$ 47,294	68156

		Inspection					
4T7	700-613	International Trade	\$	52,000	\$	54,000	68157
		and Market Development					
494	700-612	Agricultural Commodity	\$	170,220	\$	170,220	68158
		Marketing Program					
496	700-626	Ohio Grape Industries	\$	1,071,099	\$	1,071,054	68159
497	700-627	Commodity Handlers	\$	515,820	\$	529,978	68160
		Regulatory Program					
5BF	700-643	Weights and Measures	\$	1,160,600	\$	1,160,600	68161
5B8	700-629	Auctioneers	\$	365,390	\$	365,390	68162
5H2	700-608	Metrology Lab and	\$	351,526	\$	362,526	68163
		Scale Certification					
5L8	700-604	Livestock Management	\$	30,000	\$	30,000	68164
		Program					
578	700-620	Ride Inspection Fees	\$	1,105,436	\$	1,115,436	68165
652	700-634	Animal and Consumer	\$	1,876,624	\$	1,831,232	68166
		Analytical Laboratory					
669	700-635	Pesticide Program	\$	2,993,232	\$	3,354,448	68167
TOTAL SSR	State Special Revenue						68168
Fund Group			\$	14,154,904	\$	14,599,089	68169
Clean Ohio Fund Group							68170
057	700-632	Clean Ohio	\$	149,000	\$	149,000	68171
		Agricultural Easement					
TOTAL CLR	Clean Ohio Fund Group		\$	149,000	\$	149,000	68172
TOTAL ALL BUDGET FUND GROUPS			\$	47,639,304	\$	47,743,159	68173
		OHIO - ISRAEL AGRICULTURAL INITIATIVE					68174
		Of the foregoing General Revenue Fund appropriation item					68175
		700-411, International Trade and Market Development, \$100,000					68176
		shall be used in fiscal year 2006 for the Ohio - Israel					68177
		Agricultural Initiative.					68178
		FAMILY FARM LOAN PROGRAM					68179

Notwithstanding Chapter 166. of the Revised Code, up to 68180
\$1,000,000 in each fiscal year shall be transferred from moneys in 68181
the Facilities Establishment Fund (Fund 037) to the Family Farm 68182
Loan Fund (Fund 5H1) in the Department of Development. These 68183
moneys shall be used for loan guarantees. The transfer is subject 68184
to Controlling Board approval. 68185

Financial assistance from the Family Farm Loan Fund (Fund 68186
5H1) shall be repaid to Fund 5H1. This fund is established in 68187
accordance with sections 166.031, 901.80, 901.81, 901.82, and 68188
901.83 of the Revised Code. 68189

When the Family Farm Loan Fund (Fund 5H1) ceases to exist, 68190
all outstanding balances, all loan repayments, and any other 68191
outstanding obligations shall revert to the Facilities 68192
Establishment Fund (Fund 037). 68193

**Section 203.24.03. FERTILIZER-RELATED LICENSURE AND 68194
REGISTRATION 68195**

To facilitate implementation of the new schedule for 68196
fertilizer-related licensure, registration, and reporting 68197
established under sections 905.32, 905.33, 905.331, and 905.36 of 68198
the Revised Code, as amended by this act, all of the following 68199
apply: 68200

(A) With regard to licenses for which applications for the 68201
license period beginning July 1, 2005, have been submitted under 68202
sections 905.32 and 905.331 of the Revised Code as those sections 68203
existed prior to their amendment by this act, a license shall be 68204
issued for a period beginning on July 1, 2005, and ending on 68205
November 30, 2005, and shall expire on November 30, 2005. 68206

(B) With regard to registrations of a specialty fertilizer 68207
for which applications for the registration period beginning July 68208
1, 2005, have been submitted under section 905.33 of the Revised 68209

Code as that section existed prior to its amendment by this act, a 68210
registration shall be issued for the period beginning on July 1, 68211
2005, and ending on November 30, 2005, and shall expire on 68212
November 30, 2005. 68213

(C) A person who is required to submit a tonnage report 68214
within thirty days of June 30, 2005, under section 905.36 of the 68215
Revised Code as that section existed prior to its amendments by 68216
this act shall submit the report by that date. However, the person 68217
shall submit a new annual tonnage report by November 30, 2005, as 68218
required by section 905.36 of the Revised Code as amended by this 68219
act. 68220

COMMERCIAL FEED, FERTILIZER, SEED, AND LIME INSPECTION AND 68221
LABORATORY FUND 68222

The Commercial Feed, Fertilizer, Seed, and Lime Inspection 68223
and Laboratory Fund created in section 905.38 of the Revised Code, 68224
as amended by this act, is a continuation of the Commerical Feed, 68225
Fertilizer, and Lime Inspection and Laboratory Fund that was 68226
created in that section prior to its amendment by this act. 68227
Notwithstanding any other provision of law to the contrary, the 68228
Seed Fund (5Z4) created in section 907.16 of the Revised Code 68229
shall cease to exist, effective July 1, 2005. All assets, 68230
liabilities, revenues, and obligations associated with the Seed 68231
Fund (5Z4) are hereby transferred to the Commerical Feed, 68232
Fertilizer, Seed, and Lime Inspection and Laboratory Fund (Fund 68233
4C9) on July 1, 2005. 68234

Effective July 1, 2005, or as soon thereafter as possible, 68235
the Director of Agriculture shall certify to the Director of 68236
Budget and Management the cash balance in the Seed Fund (5Z4), 68237
which was merged in section 907.16 of the Revised Code, as amended 68238
by this act. The Director of Budget and Management shall transfer 68239
the certified amount to the Commercial Feed, Fertilizer, Seed, and 68240

Lime Inspection and Laboratory Fund (Fund 4C9), which is created 68241
in section 907.16 of the Revised Code, formerly named the Seed 68242
Fund. The Director shall cancel any existing encumbrances against 68243
appropriation item 700-642, Seed Program, and re-establish them 68244
against appropriation item 700-605, Feed, Fertilizer, Seed, and 68245
Lime Inspection. The amounts of the re-established encumbrances 68246
are hereby appropriated. 68247

METROLOGY LAB AND SCALE CERTIFICATION FUND 68248

The Metrology and Scale Certification Fund created in section 68249
1327.511 of the Revised Code, as amended by this act, is a 68250
continuation of the Scale Certification Fund that was created in 68251
that section prior to its amendment by this act. Notwithstanding 68252
any other provision of law to the contrary, the Scale 68253
Certification Fund (Fund 579) created in section 1327.511 of the 68254
Revised Code shall cease to exist, effective July 1, 2005. All 68255
assets, liabilities, revenues, and obligations associated with the 68256
Scale Certification Fund (Fund 579) are hereby transferred to the 68257
Metrology Lab and Scale Certification Fund (Fund 5H2) on July 1, 68258
2005. 68259

Effective July 1, 2005, or as soon thereafter as possible, 68260
the Director of Agriculture shall certify to the Director of 68261
Budget and Management the cash balance in the Scale Certification 68262
Fund (Fund 579), which was merged in section 1327.511 of the 68263
Revised Code, as amended by this act. The Director of Budget and 68264
Management shall transfer the certified amount to the Metrology 68265
Laboratory and Scale Certification Fund (Fund 5H2) which is 68266
created in section 1327.511 of the Revised Code, formerly named 68267
the Scale Certification Laboratory Fund. The Director shall cancel 68268
any existing encumbrances against appropriation item 700-630, 68269
Scale Certification, and re-establish them against appropriation 68270
item 700-608, Metrology Lab. The amounts of the re-established 68271
encumbrances are hereby appropriated. 68272

ANIMAL AND CONSUMER ANALYTICAL LABORATORY SERVICES FUND 68273

Notwithstanding any other provision of law to the contrary, 68274
the Animal Industry Laboratory Fees Fund (Fund 4V5) created in 68275
division (E)(1) of section 901.43 of the Revised Code shall cease 68276
to exist, effective July 1, 2005. All assets, liabilities, 68277
revenues, and obligations associated with the Animal Industry 68278
Laboratory Fund (Fund 4V5) are hereby transferred to the Animal 68279
and Consumer Analytical Laboratory Services Fund (Fund 652) on 68280
July 1, 2005. 68281

Effective July 1, 2005, or as soon thereafter as possible, 68282
the Director of Agriculture shall certify to the Director Budget 68283
and Management the cash balance in the Animal Industry Laboratory 68284
Fund (Fund 4V5), which was merged in division (E)(1) of section 68285
901.43 of the Revised Code, as amended by this act. The Director 68286
of Budget and Management shall transfer the certified amount to 68287
the Animal and Consumer Analytical Laboratory Services Fund (Fund 68288
652) which is created in division (E)(2) of section 901.43 of the 68289
Revised Code, formerly named the Animal Industry Laboratory Fund. 68290
The Director of Budget and Management shall cancel any existing 68291
encumbrances against appropriation item 700-615, Animal Industry 68292
Lab Fees, and re-establish them against appropriation item 68293
700-634, Laboratory Services. The amounts of the re-established 68294
encumbrances are hereby appropriated. 68295

PESTICIDE REGISTRATION AND INSPECTION FEE 68296

The registration and inspection fee established in rules 68297
adopted under section 921.16 of Revised Code for the purposes of 68298
section 921.02 of the Revised Code, as that section existed prior 68299
to its amendment by this act, that are in effect on January 1, 68300
2005, shall remain in effect until the new fees established in 68301
section 921.02 of the Revised Code as amended by this act take 68302
effect on January 1, 2007. 68303

CLEAN OHIO AGRICULTURAL EASEMENT				68304	
The foregoing appropriation item 700-632, Clean Ohio				68305	
Agricultural Easement, shall be used by the Department of				68306	
Agriculture in administering sections 901.21, 901.22, and 5301.67				68307	
to 5301.70 of the Revised Code.				68308	
TRANSFER BETWEEN FUNDS				68309	
For fiscal years 2006 and 2007, if the cash credited to the				68310	
Commercial Feed, Fertilizer, Seed, and Lime Inspection and				68311	
Laboratory Fund (Fund 4C9) or the Pesticide Program Fund (Fund				68312	
669) exceeds the amount necessary to administer the programs for				68313	
which they were intended, the Director of Agriculture may certify				68314	
the amount to the Director of Budget and Management. The Director				68315	
of Budget and Management may transfer the cash to any other fund				68316	
administered by the Director of Agriculture.				68317	
Section 203.27. AIR AIR QUALITY DEVELOPMENT AUTHORITY				68318	
General Revenue Fund				68319	
GRF 898-402 Coal Development	\$	568,814	\$	573,814	68320
Office					
GRF 898-901 Coal R&D General	\$	7,071,100	\$	8,980,800	68321
Obligation Debt					
Service					
TOTAL GRF General Revenue Fund	\$	7,639,914	\$	9,554,614	68322
Agency Fund Group					68323
429 898-602 Small Business	\$	263,165	\$	264,196	68324
Ombudsman					
5A0 898-603 Small Business	\$	71,087	\$	71,087	68325
Assistance					
570 898-601 Operating Expenses	\$	256,875	\$	263,693	68326
TOTAL AGY Agency Fund Group	\$	591,127	\$	598,976	68327
Coal Research/Development Fund					68328

046 898-604 Coal Research and Development Fund	\$ 10,000,000	\$ 10,000,000	68329
TOTAL 046 Coal Research/Development Fund	\$ 10,000,000	\$ 10,000,000	68330
TOTAL ALL BUDGET FUND GROUPS	\$ 18,231,041	\$ 20,153,590	68331
COAL DEVELOPMENT OFFICE			68332
The foregoing appropriation item GRF 898-402, Coal Development Office, shall be used for the administrative costs of the Coal Development Office.			68333 68334 68335
COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE			68336
The foregoing appropriation item GRF 898-901, Coal R & D General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made under sections 151.01 and 151.07 of the Revised Code during the period from July 1, 2005, to June 30, 2007. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by intrastate transfer voucher.			68337 68338 68339 68340 68341 68342 68343
SCIENCE AND TECHNOLOGY COLLABORATION			68344
The Air Quality Development Authority shall work in close collaboration with the Department of Development, the Board of Regents, and the Third Frontier Commission in relation to appropriation items and programs referred to as Alignment Programs in the following paragraph, and other technology-related appropriations and programs in the Department of Development, Air Quality Development Authority, and the Board of Regents as those agencies may designate, to ensure implementation of a coherent state strategy with respect to science and technology.			68345 68346 68347 68348 68349 68350 68351 68352 68353
To the extent permitted by law, the Air Quality Development Authority shall assure that coal research and development programs, proposals, and projects consider or incorporate appropriate collaborations with Third Frontier Project programs			68354 68355 68356 68357

and grantees and with Alignment Programs and grantees. 68358

"Alignment Programs" means: appropriation items 195-401, 68359
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 68360
Third Frontier Action Fund; 898-604, Coal Research and Development 68361
Fund; 235-433, Economic Growth Challenge; 235-508, Air Force 68362
Institute of Technology; 235-510, Ohio Supercomputer Center; 68363
235-451, Eminent Scholars; 235-527, Ohio Aerospace Institute; 68364
235-535, Ohio Agricultural Research and Development Center; 68365
235-553, Dayton Area Graduate Studies Institute; 235-554, 68366
Priorities in Collaborative Graduate Education; 235-556, Ohio 68367
Academic Resources Network; and 195-435, Biomedical Research and 68368
Technology Transfer Trust. 68369

Consistent with the recommendations of the Governor's 68370
Commission on Higher Education and the Economy, Alignment Programs 68371
shall be managed and administered (1) to build on existing 68372
competitive research strengths, (2) to encourage new and emerging 68373
discoveries and commercialization of ideas and products that will 68374
benefit the Ohio economy, and (3) to assure improved collaboration 68375
among Alignment Programs, with programs administered by the Third 68376
Frontier Commission, and with other state programs that are 68377
intended to improve economic growth and job creation. 68378

As directed by the Third Frontier Commission, Alignment 68379
Program managers shall report to the Commission or to the Third 68380
Frontier Advisory Board on the contributions of their programs to 68381
achieving the objectives stated in the preceding paragraph. 68382

Each alignment program shall be reviewed annually by the 68383
Third Frontier Commission with respect to its development of 68384
complementary relationships within a combined state science and 68385
technology investment portfolio and its overall contribution to 68386
the state's science and technology strategy, including the 68387
adoption of appropriately consistent criteria for: (1) the 68388

scientific merit of activities supported by the program; (2) the 68389
relevance of the program's activities to commercial opportunities 68390
in the private sector; (3) the private sector's involvement in a 68391
process that continually evaluates commercial opportunities to use 68392
the work supported by the program; and (4) the ability of the 68393
program and recipients of grant funding from the program to engage 68394
in activities that are collaborative, complementary, and efficient 68395
with respect to the expenditure of state funds. Each alignment 68396
program shall provide annual reports to the Third Frontier 68397
Commission discussing existing, planned, or possible 68398
collaborations between programs and recipients of grant funding 68399
related to technology, development, commercialization, and 68400
supporting Ohio's economic development. The annual review by the 68401
Third Frontier Commission shall be a comprehensive review of the 68402
entire state science and technology program portfolio rather than 68403
a review of individual programs. 68404

Requirements for high-performance computing facilities and 68405
services, including both hardware and software, shall be 68406
specifically addressed in all proposals for Third Frontier and 68407
Alignment Program funding. Where such facilities and services 68408
individually or collectively exceed approximately \$100,000 for a 68409
proposal, the Ohio Supercomputer Center shall convene a panel of 68410
experts to review the proposal to determine, for the consideration 68411
of the Third Frontier Commission, whether the proposed project 68412
requirements can be met through Ohio Supercomputer Center 68413
facilities or through other means. 68414

Section 203.30. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION 68415
SERVICES 68416

General Revenue Fund 68417
GRF 038-321 Operating Expenses \$ 1,128,275 \$ 1,128,275 68418
GRF 038-401 Treatment Services \$ 35,593,265 \$ 36,661,063 68419

GRF 038-404 Prevention Services	\$	1,021,483	\$	1,052,127	68420
TOTAL GRF General Revenue Fund	\$	37,743,023	\$	38,841,465	68421
General Services Fund					68422
5T9 038-616 Problem Gambling	\$	285,000	\$	285,000	68423
Services					
TOTAL GSF General Services Fund	\$	285,000	\$	285,000	68424
Group					
Federal Special Revenue Fund Group					68425
3G3 038-603 Drug Free Schools	\$	3,500,000	\$	3,500,000	68426
3G4 038-614 Substance Abuse Block	\$	73,000,000	\$	73,000,000	68427
Grant					
3H8 038-609 Demonstration Grants	\$	7,093,075	\$	7,093,075	68428
3J8 038-610 Medicaid	\$	42,000,000	\$	46,000,000	68429
3N8 038-611 Administrative	\$	500,000	\$	500,000	68430
Reimbursement					
TOTAL FED Federal Special Revenue					68431
Fund Group	\$	126,093,075	\$	130,093,075	68432
State Special Revenue Fund Group					68433
475 038-621 Statewide Treatment	\$	17,500,000	\$	18,000,000	68434
and Prevention					
689 038-604 Education and	\$	350,000	\$	350,000	68435
Conferences					
TOTAL SSR State Special Revenue					68436
Fund Group	\$	17,850,000	\$	18,350,000	68437
TOTAL ALL BUDGET FUND GROUPS	\$	181,971,098	\$	187,569,540	68438
OPERATING EXPENSES					68439
Of the foregoing appropriation item 038-321, Operating					68440
Expenses, \$50,000 in each fiscal year shall be distributed					68441
directly to the Talbert House.					68442
TREATMENT SERVICES					68443
Of the foregoing appropriation item 038-401, Treatment					68444

Services, not more than \$8,190,000 shall be used by the Department 68445
of Alcohol and Drug Addiction Services for program grants for 68446
priority populations in each year of the biennium. 68447

SUBSTANCE ABUSE SERVICES FOR FAMILIES OF AT RISK CHILDREN 68448

Of the foregoing appropriation item 038-401, Treatment 68449
Services, \$4 million in each fiscal year shall be used to provide 68450
substance abuse services to families involved in the child welfare 68451
system under the requirements of Am. Sub. H.B. 484 of the 122nd 68452
General Assembly. 68453

SERVICES FOR TANF-ELIGIBLE INDIVIDUALS 68454

Of the foregoing appropriation item 038-401, Treatment 68455
Services, \$5 million each year shall be used to fund TANF-eligible 68456
expenditures for substance abuse prevention and treatment services 68457
to children, or their families, whose income is at or below 200 68458
per cent of the official income poverty guideline. The Director of 68459
Alcohol and Drug Addiction Services and the Director of Job and 68460
Family Services shall develop operating and reporting guidelines 68461
for these programs. 68462

THERAPEUTIC COMMUNITIES 68463

Of the foregoing appropriation item 038-401, Treatment 68464
Services, \$750,000 shall be used in each fiscal year for expansion 68465
of the Therapeutic Communities Program in the Department of 68466
Rehabilitation and Correction. 68467

PARENT AWARENESS TASK FORCE 68468

The Parent Awareness Task Force shall study ways to engage 68469
more parents in activities, coalitions, and educational programs 68470
in Ohio relating to alcohol and other drug abuse prevention. Of 68471
the foregoing appropriation item 038-404, Prevention Services, 68472
\$30,000 in each fiscal year may be used to support the functions 68473
of the Parent Awareness Task Force. 68474

Section 203.36. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS			68475
General Services Fund Group			68476
4K9 891-609 Operating Expenses	\$	489,197 \$	489,197 68477
TOTAL GSF General Services Fund			68478
Group	\$	489,197 \$	489,197 68479
TOTAL ALL BUDGET FUND GROUPS			\$ 489,197 \$ 489,197 68480
 Section 203.39. ART OHIO ARTS COUNCIL			68482
General Revenue Fund			68483
GRF 370-100 Personal Services	\$	1,798,235 \$	1,798,235 68484
GRF 370-200 Maintenance	\$	459,746 \$	459,746 68485
GRF 370-300 Equipment	\$	4,700 \$	4,700 68486
GRF 370-502 Program Subsidies	\$	7,975,480 \$	7,975,480 68487
TOTAL GRF General Revenue Fund			\$ 10,238,161 \$ 10,238,161 68488
General Services Fund Group			68489
4B7 370-603 Per Cent for Art	\$	86,366 \$	86,366 68490
Acquisitions			
460 370-602 Gifts and Donations	\$	400,000 \$	400,000 68491
TOTAL GSF General Services Fund			\$ 486,366 \$ 486,366 68492
Group			
Federal Special Revenue Fund Group			68493
314 370-601 Federal Programs	\$	1,537,200 \$	1,537,200 68494
TOTAL FED Federal Special Revenue			\$ 1,537,200 \$ 1,537,200 68495
Fund Group			
TOTAL ALL BUDGET FUND GROUPS			\$ 12,261,727 \$ 12,261,727 68496
PROGRAM SUBSIDIES			68497
A museum is not eligible to receive funds from appropriation			68498
item 370-502, Program Subsidies, if \$8,000,000 or more in capital			68499
appropriations were appropriated by the state for the museum			68500
between January 1, 1986, and December 31, 2002.			68501

Section 203.42. AFC OHIO CULTURAL FACILITIES COMMISSION				68502	
General Revenue Fund				68503	
GRF 371-321 Operating Expenses	\$	198,406	\$	195,707	68504
GRF 371-401 Lease Rental Payments	\$	38,126,600	\$	38,246,500	68505
TOTAL GRF General Revenue Fund	\$	38,325,006	\$	38,442,207	68506
State Special Revenue Fund Group				68507	
4T8 371-601 Riffe Theatre	\$	81,000	\$	81,000	68508
Equipment Maintenance					
4T8 371-603 Project Administration	\$	920,448	\$	983,295	68509
TOTAL SSR State Special Revenue	\$	1,001,448	\$	1,064,295	68510
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	39,326,454	\$	39,506,502	68511
LEASE RENTAL PAYMENTS				68512	
The foregoing appropriation item 371-401, Lease Rental				68513	
Payments, shall be used for payments to the Ohio Building				68514	
Authority and the Treasurer of State for the period from July 1,				68515	
2005, to June 30, 2007, under the primary leases and agreements				68516	
for those arts and sports facilities made under Chapters 152. and				68517	
154. of the Revised Code, but limited to the aggregate amount of				68518	
\$76,373,100. This appropriation is the source of funds pledged for				68519	
bond service charges on related obligations issued pursuant to				68520	
Chapter 152. of the Revised Code.				68521	
OPERATING EXPENSES				68522	
The foregoing appropriation item 371-321, Operating Expenses,				68523	
shall be used by the Ohio Cultural Facilities Commission to carry				68524	
out its responsibilities under this section and Chapter 3383. of				68525	
the Revised Code.				68526	
By July 10, 2005, or as soon as possible thereafter, the				68527	
Director of Budget and Management shall determine the amount of				68528	
cash from interest earnings to be transferred from the Ohio				68529	

Cultural Facilities Building Fund (Fund 030) to the AFC 68530
Administration Fund (Fund 4T8). 68531

By July 10, 2006, or as soon as possible thereafter, the 68532
Director of Budget and Management shall determine the amount of 68533
cash from interest earnings to be transferred from the Ohio 68534
Cultural Facilities Building Fund (Fund 030) to the AFC 68535
Administration Fund (Fund 4T8). 68536

Section 203.45. ATH ATHLETIC COMMISSION 68537

General Services Fund Group 68538
4K9 175-609 Operating Expenses \$ 248,150 \$ 0 68539
TOTAL GSF General Services Fund \$ 248,150 \$ 0 68540
Group
TOTAL ALL BUDGET FUND GROUPS \$ 248,150 \$ 0 68541

Section 203.48. AGO ATTORNEY GENERAL 68543

General Revenue Fund 68544
GRF 055-321 Operating Expenses \$ 42,118,150 \$ 52,610,156 68545
GRF 055-411 County Sheriffs' Pay \$ 760,495 \$ 779,509 68546
Supplement
GRF 055-415 County Prosecutors' \$ 740,704 \$ 759,222 68547
Pay Supplement
TOTAL GRF General Revenue Fund \$ 43,619,349 \$ 54,148,887 68548
General Services Fund Group 68549
106 055-612 General Reimbursement \$ 21,370,196 \$ 21,370,196 68550
107 055-624 Employment Services \$ 850,000 \$ 850,000 68551
195 055-660 Workers' Compensation \$ 7,769,628 \$ 7,769,628 68552
Section
4Y7 055-608 Title Defect \$ 250,000 \$ 250,000 68553
Rescission
4Z2 055-609 BCI Asset Forfeiture \$ 1,332,109 \$ 1,332,109 68554
and Cost Reimbursement

418	055-615	Charitable Foundations	\$	4,899,066	\$	4,899,066	68555
420	055-603	Attorney General	\$	446,449	\$	446,449	68556
		Antitrust					
421	055-617	Police Officers'	\$	1,693,213	\$	1,693,213	68557
		Training Academy Fee					
5A9	055-618	Telemarketing Fraud	\$	7,500	\$	7,500	68558
		Enforcement					
590	055-633	Peace Officer Private	\$	98,370	\$	98,370	68559
		Security Fund					
629	055-636	Corrupt Activity	\$	15,000	\$	15,000	68560
		Investigation and					
		Prosecution					
631	055-637	Consumer Protection	\$	1,373,832	\$	1,373,832	68561
		Enforcement					
TOTAL GSF General Services Fund							68562
Group			\$	40,105,363	\$	40,105,363	68563
Federal Special Revenue Fund Group							68564
3E5	055-638	Attorney General	\$	1,981,102	\$	1,981,102	68565
		Pass-Through Funds					
3R6	055-613	Attorney General	\$	3,842,097	\$	3,842,097	68566
		Federal Funds					
306	055-620	Medicaid Fraud Control	\$	2,799,000	\$	2,799,000	68567
381	055-611	Civil Rights Legal	\$	390,815	\$	390,815	68568
		Service					
383	055-634	Crime Victims	\$	18,439,313	\$	18,439,313	68569
		Assistance					
TOTAL FED Federal Special Revenue							68570
Fund Group			\$	27,452,327	\$	27,452,327	68571
State Special Revenue Fund Group							68572
4L6	055-606	DARE	\$	3,927,962	\$	3,927,962	68573
402	055-616	Victims of Crime	\$	30,000,000	\$	30,000,000	68574
419	055-623	Claims Section	\$	23,671,954	\$	15,149,954	68575

659	055-641	Solid and Hazardous Waste Background Investigations	\$	621,159	\$	621,159	68576
TOTAL SSR State Special Revenue							68577
Fund Group			\$	58,221,075	\$	49,699,075	68578
Holding Account Redistribution Fund Group							68579
R04	055-631	General Holding Account	\$	275,000	\$	275,000	68580
R05	055-632	Antitrust Settlements	\$	1,000	\$	1,000	68581
R18	055-630	Consumer Frauds	\$	300,000	\$	300,000	68582
R42	055-601	Organized Crime Commission Account	\$	25,025	\$	25,025	68583
TOTAL 090 Holding Account Redistribution Fund Group							68584
			\$	601,025	\$	601,025	68585
TOTAL ALL BUDGET FUND GROUPS							68586
			\$	169,999,139	\$	172,006,677	68586
COUNTY SHERIFFS' PAY SUPPLEMENT							68587
The foregoing appropriation item 055-411, County Sheriffs'							68588
Pay Supplement, shall be used for the purpose of supplementing the							68589
annual compensation of county sheriffs as required by section							68590
325.06 of the Revised Code.							68591
COUNTY PROSECUTORS' PAY SUPPLEMENT							68592
The foregoing appropriation item 055-415, County Prosecutors'							68593
Pay Supplement, shall be used for the purpose of supplementing the							68594
annual compensation of certain county prosecutors as required by							68595
section 325.111 of the Revised Code.							68596
WORKERS' COMPENSATION SECTION							68597
The Workers' Compensation Section Fund (Fund 195) is entitled							68598
to receive payments from the Bureau of Workers' Compensation and							68599
the Ohio Industrial Commission at the beginning of each quarter of							68600
each fiscal year to fund legal services to be provided to the							68601
Bureau of Workers' Compensation and the Ohio Industrial Commission							68602

during the ensuing quarter. The advance payment shall be subject 68603
to adjustment. 68604

In addition, the Bureau of Workers' Compensation shall 68605
transfer payments at the beginning of each quarter for the support 68606
of the Workers' Compensation Fraud Unit. 68607

All amounts shall be mutually agreed upon by the Attorney 68608
General, the Bureau of Workers' Compensation, and the Ohio 68609
Industrial Commission. 68610

CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION 68611

The foregoing appropriation item 055-636, Corrupt Activity 68612
Investigation and Prosecution, shall be used as provided by 68613
division (D)(2) of section 2923.35 of the Revised Code to dispose 68614
of the proceeds, fines, and penalties credited to the Corrupt 68615
Activity Investigation and Prosecution Fund, which is created in 68616
division (D)(1)(b) of section 2923.35 of the Revised Code. If it 68617
is determined that additional amounts are necessary for this 68618
purpose, the amounts are hereby appropriated. 68619

FEDERAL PASS-THROUGH FUNDS 68620

The foregoing appropriation item 055-638, Attorney General 68621
Pass-Through Funds, shall be used to receive federal grant funds 68622
provided to the Attorney General by other state agencies, 68623
including, but not limited to, the Department of Youth Services 68624
and the Department of Public Safety. (These grants or subgrants 68625
generally pertain to criminal justice activities such as law 68626
enforcement or victims' services.) 68627

ANTITRUST SETTLEMENTS 68628

The foregoing appropriation item 055-632, Antitrust 68629
Settlements, shall be used to distribute court-ordered antitrust 68630
settlements in which the Office of Attorney General represents the 68631
state or a political subdivision under section 109.81 of the 68632

Revised Code. If it is determined that additional amounts are
necessary for this purpose, the amounts are hereby appropriated.

CONSUMER FRAUDS

The foregoing appropriation item 055-630, Consumer Frauds,
shall be used for distribution of moneys from court-ordered
judgments against sellers in actions brought by the Office of
Attorney General under sections 1334.08 and 4549.48 and division
(B) of section 1345.07 of the Revised Code. These moneys shall be
used to provide restitution to consumers victimized by the fraud
that generated the court-ordered judgments. If it is determined
that additional amounts are necessary for this purpose, the
amounts are hereby appropriated.

ORGANIZED CRIME COMMISSION ACCOUNT

The foregoing appropriation item 055-601, Organized Crime
Commission Account, shall be used by the Organized Crime
Investigations Commission, as provided by section 177.011 of the
Revised Code, to reimburse political subdivisions for the expenses
the political subdivisions incur when their law enforcement
officers participate in an organized crime task force. If it is
determined that additional amounts are necessary for this purpose,
the amounts are hereby appropriated.

Section 203.51. AUD AUDITOR OF STATE

General Revenue Fund

GRF 070-321	Operating Expenses	\$	28,964,425	\$	28,964,425	
GRF 070-403	Fiscal Watch/Emergency	\$	500,000	\$	500,000	
	Technical Assistance					
GRF 070-405	Electronic Data	\$	823,193	\$	823,193	
	Processing - Auditing and Administration					
GRF 070-406	Uniform Accounting	\$	1,588,538	\$	1,588,538	

Network/Technology					
Improvements Fund					
TOTAL GRF General Revenue Fund	\$	31,876,156	\$	31,876,156	68660
Auditor of State Fund Group					68661
R06 070-604 Continuous Receipts	\$	35,000	\$	35,000	68662
109 070-601 Public Audit Expense -	\$	9,300,000	\$	9,300,000	68663
Intra-State					
422 070-601 Public Audit Expense -	\$	31,104,840	\$	31,104,840	68664
Local Government					
584 070-603 Training Program	\$	131,250	\$	131,250	68665
675 070-605 Uniform Accounting	\$	3,317,336	\$	3,317,336	68666
Network					
TOTAL AUS Auditor of State Fund					68667
Group	\$	43,888,426	\$	43,888,426	68668
TOTAL ALL BUDGET FUND GROUPS	\$	75,764,582	\$	75,764,582	68669
FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE					
The foregoing appropriation item 070-403, Fiscal				68671	
Watch/Emergency Technical Assistance, shall be used for all				68672	
expenses incurred by the Office of the Auditor of State in its				68673	
role relating to fiscal watch or fiscal emergency activities under				68674	
Chapters 118. and 3316. of the Revised Code. Expenses include, but				68675	
are not limited to, the following: duties related to the				68676	
determination or termination of fiscal watch or fiscal emergency				68677	
of municipal corporations, counties, or townships as outlined in				68678	
Chapter 118. of the Revised Code and of school districts as				68679	
outlined in Chapter 3316. of the Revised Code; development of				68680	
preliminary accounting reports; performance of annual forecasts;				68681	
provision of performance audits; and supervisory, accounting, or				68682	
auditing services for the mentioned public entities and school				68683	
districts. The unencumbered balance of appropriation item 070-403,				68684	
Fiscal Watch/Emergency Technical Assistance, at the end of fiscal				68685	
year 2006 is transferred to fiscal year 2007 for use under the				68686	

same appropriation item.				68687
ELECTRONIC DATA PROCESSING				68688
The unencumbered balance of appropriation item 070-405,				68689
Electronic Data Processing - Auditing and Administration, at the				68690
end of fiscal year 2006 is transferred to fiscal year 2007 for use				68691
under the same appropriation item.				68692
UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND				68693
The foregoing appropriation item 070-406, Uniform Accounting				68694
Network/Technology Improvements Fund, shall be used to pay the				68695
costs of developing and implementing the Uniform Accounting				68696
Network and technology improvements for the Office of the Auditor				68697
of State. The unencumbered balance of the appropriation at the end				68698
of fiscal year 2006 is transferred to fiscal year 2007 to pay the				68699
costs of developing and implementing the Uniform Accounting				68700
Network and technology improvements for the Office of the Auditor				68701
of State.				68702
Section 203.54. BRB BOARD OF BARBER EXAMINERS				68703
General Services Fund Group				68704
4K9 877-609 Operating Expenses	\$	568,126	\$	0 68705
TOTAL GSF General Services Fund				68706
Group	\$	568,126	\$	0 68707
TOTAL ALL BUDGET FUND GROUPS	\$	568,126	\$	0 68708
Section 203.57. OBM OFFICE OF BUDGET AND MANAGEMENT				68710
General Revenue Fund				68711
GRF 042-321 Budget Development and	\$	2,143,886	\$	2,143,886 68712
Implementation				
GRF 042-410 National Association	\$	27,089	\$	28,173 68713
Dues				
GRF 042-412 Audit of Auditor of	\$	55,900	\$	58,700 68714

State					
GRF 042-435	Gubernatorial	\$	0	\$ 250,000	68715
Transition					
TOTAL GRF	General Revenue Fund	\$	2,226,875	\$ 2,480,759	68716
General Services Fund Group					68717
105 042-603	Accounting and	\$	9,781,085	\$ 9,976,689	68718
Budgeting					
TOTAL GSF	General Services Fund	\$	9,781,085	\$ 9,976,689	68719
Group					
State Special Revenue Fund Group					68720
5N4 042-602	OAKS Project	\$	2,262,441	\$ 2,272,595	68721
Implementation					
TOTAL SSR	State Special Revenue	\$	2,262,441	\$ 2,272,595	68722
Fund Group					
TOTAL ALL BUDGET FUND GROUPS		\$	14,270,401	\$ 14,730,043	68723
AUDIT COSTS					68724
Of the foregoing appropriation item 042-603, Accounting and					68725
Budgeting, not more than \$420,000 in fiscal year 2006 and \$425,000					68726
in fiscal year 2007 shall be used to pay for centralized audit					68727
costs associated with either Single Audit Schedules or financial					68728
statements prepared in conformance with generally accepted					68729
accounting principles for the state.					68730
OAKS PROJECT IMPLEMENTATION					68731
Notwithstanding section 126.25 of the Revised Code, in fiscal					68732
years 2006 and 2007, rebates or revenue shares received from any					68733
state payment card program established under division (B) of					68734
section 126.21 of the Revised Code may be deposited into the OAKS					68735
Project Implementation Fund (Fund 5N4).					68736
Section 203.60. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD					68737
General Revenue Fund					68738

GRF 874-100 Personal Services	\$	1,900,000	\$	1,900,000	68739
GRF 874-320 Maintenance and Equipment	\$	992,269	\$	952,269	68740
TOTAL GRF General Revenue Fund	\$	2,892,269	\$	2,852,269	68741
General Services Fund Group					68742
4G5 874-603 Capitol Square Maintenance Expenses	\$	15,000	\$	15,000	68743
4S7 874-602 Statehouse Gift Shop/Events	\$	770,484	\$	770,484	68744
TOTAL GSF General Services Fund Group	\$	785,484	\$	785,484	68745 68746
Underground Parking Garage					68747
208 874-601 Underground Parking Garage Operating	\$	2,959,721	\$	2,959,721	68748
TOTAL UPG Underground Parking Garage	\$	2,959,721	\$	2,959,721	68749 68750
TOTAL ALL BUDGET FUND GROUPS	\$	6,637,474	\$	6,597,474	68751
EXPANSION OF COMMITTEE HEARING ROOMS					68752
Of the foregoing appropriation item 874-320, Maintenance and Equipment, \$40,000 in fiscal year 2006 shall be used to expand the House of Representatives committee hearing rooms, numbers 119 and 121.					68753 68754 68755 68756
Section 203.63. SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS					68757 68758
General Services Fund Group					68759
4K9 233-601 Operating Expenses	\$	486,700	\$	508,600	68760
TOTAL GSF General Services Fund Group	\$	486,700	\$	508,600	68761
TOTAL ALL BUDGET FUND GROUPS	\$	486,700	\$	508,600	68762
Section 203.66. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD					68764

General Services Fund Group				68765
4K9 930-609 Operating Expenses	\$	452,976	\$	0 68766
TOTAL GSF General Services Fund	\$	452,976	\$	0 68767
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	452,976	\$	0 68768

Section 203.69. CHR STATE CHIROPRACTIC BOARD 68770

General Services Fund Group				68771
4K9 878-609 Operating Expenses	\$	605,278	\$	0 68772
TOTAL GSF General Services Fund				68773
Group	\$	605,278	\$	0 68774
TOTAL ALL BUDGET FUND GROUPS	\$	605,278	\$	0 68775

Section 203.72. CIV OHIO CIVIL RIGHTS COMMISSION 68777

General Revenue Fund				68778
GRF 876-321 Operating Expenses	\$	7,253,075	\$ 7,470,667	68779
TOTAL GRF General Revenue Fund	\$	7,253,075	\$ 7,470,667	68780
Federal Special Revenue Fund Group				68781
334 876-601 Investigations	\$	3,760,000	\$ 3,560,000	68782
TOTAL FED Federal Special Revenue				68783
Fund Group	\$	3,760,000	\$ 3,560,000	68784
State Special Revenue Fund Group				68785
217 876-604 Operations Support	\$	50,951	\$ 50,951	68786
TOTAL SSR State Special				68787
Revenue Fund Group	\$	50,951	\$ 50,951	68788
TOTAL ALL BUDGET FUND GROUPS	\$	11,064,026	\$ 11,081,618	68789

Section 203.75. COM DEPARTMENT OF COMMERCE 68791

General Revenue Fund				68792
GRF 800-410 Labor and Worker	\$	2,086,477	\$ 2,032,397	68793
Safety				

Total GRF General Revenue Fund	\$	2,086,477	\$	2,032,397	68794
General Services Fund Group					68795
163 800-620 Division of Administration	\$	4,262,314	\$	4,368,037	68796
163 800-637 Information Technology	\$	2,733,853	\$	2,785,045	68797
5F1 800-635 Small Government Fire Departments	\$	250,000	\$	250,000	68798
543 800-602 Unclaimed Funds-Operating	\$	7,351,051	\$	7,351,051	68799
543 800-625 Unclaimed Funds-Claims	\$	52,000,000	\$	55,000,000	68800
TOTAL GSF General Services Fund Group	\$	66,597,218	\$	69,754,133	68801
Federal Special Revenue Fund Group					68803
348 800-622 Underground Storage Tanks	\$	195,008	\$	195,008	68804
348 800-624 Leaking Underground Storage Tanks	\$	1,850,000	\$	1,850,000	68805
TOTAL FED Federal Special Revenue Fund Group	\$	2,045,008	\$	2,045,008	68806
State Special Revenue Fund Group					68808
4B2 800-631 Real Estate Appraisal Recovery	\$	35,000	\$	35,000	68809
4H9 800-608 Cemeteries	\$	273,465	\$	273,465	68810
4X2 800-619 Financial Institutions	\$	2,200,843	\$	2,200,843	68811
5K7 800-621 Penalty Enforcement	\$	50,000	\$	50,000	68812
544 800-612 Banks	\$	6,757,197	\$	6,759,197	68813
545 800-613 Savings Institutions	\$	2,678,248	\$	2,669,774	68814
546 800-610 Fire Marshal	\$	12,187,994	\$	12,292,994	68815
546 800-639 Fire Department Grants	\$	1,647,140	\$	1,647,140	68816
547 800-603 Real Estate Education/Research	\$	250,000	\$	250,000	68817
548 800-611 Real Estate Recovery	\$	50,000	\$	50,000	68818

549 800-614	Real Estate	\$	3,605,892	\$	3,605,892	68819
550 800-617	Securities	\$	4,300,000	\$	4,400,000	68820
552 800-604	Credit Union	\$	2,936,852	\$	2,941,852	68821
553 800-607	Consumer Finance	\$	4,300,445	\$	4,300,445	68822
556 800-615	Industrial Compliance	\$	25,037,257	\$	25,037,257	68823
6A4 800-630	Real Estate	\$	664,006	\$	664,006	68824
	Appraiser-Operating					
653 800-629	UST Registration/Permit	\$	1,249,632	\$	1,249,632	68825
	Fee					
TOTAL SSR State Special Revenue						68826
Fund Group		\$	68,223,971	\$	68,427,497	68827
Liquor Control Fund Group						68828
043 800-601	Merchandising	\$	382,595,409	\$	397,839,347	68829
043 800-627	Liquor Control	\$	16,873,183	\$	15,981,346	68830
	Operating					
043 800-633	Development Assistance	\$	32,158,300	\$	39,230,000	68831
	Debt Service					
043 800-636	Revitalization Debt	\$	9,740,500	\$	13,485,800	68832
	Service					
TOTAL LCF Liquor Control						68833
Fund Group		\$	441,367,392	\$	466,536,493	68834
TOTAL ALL BUDGET FUND GROUPS						68835
SMALL GOVERNMENT FIRE DEPARTMENTS						68836
Notwithstanding section 3737.17 of the Revised Code, the						68837
foregoing appropriation item 800-635, Small Government Fire						68838
Departments, may be used to provide loans to private fire						68839
departments.						68840
PENALTY ENFORCEMENT						68841
The foregoing appropriation item 800-621, Penalty						68842
Enforcement, shall be used to enforce sections 4115.03 to 4115.16						68843
of the Revised Code.						68844

UNCLAIMED FUNDS PAYMENTS	68845
The foregoing appropriation item 800-625, Unclaimed	68846
Funds-Claims, shall be used to pay claims under section 169.08 of	68847
the Revised Code. If it is determined that additional amounts are	68848
necessary, the amounts are hereby appropriated.	68849
UNCLAIMED FUNDS TRANSFERS	68850
Notwithstanding division (A) of section 169.05 of the Revised	68851
Code, prior to June 30, 2006, and upon the request of the Director	68852
of Budget and Management, the Director of Commerce shall transfer	68853
to the General Revenue Fund up to \$50,000,000 of unclaimed funds	68854
that have been reported by holders of unclaimed funds under	68855
section 169.05 of the Revised Code, irrespective of the allocation	68856
of the unclaimed funds under that section.	68857
Notwithstanding division (A) of section 169.05 of the Revised	68858
Code, prior to June 30, 2007, and upon the request of the Director	68859
of Budget and Management, the Director of Commerce shall transfer	68860
to the General Revenue Fund up to \$50,000,000 of unclaimed funds	68861
that have been reported by holders of unclaimed funds under	68862
section 169.05 of the Revised Code, irrespective of the allocation	68863
of the unclaimed funds under that section.	68864
CASH TRANSFER TO STATE FIRE MARSHAL FUND (FUND 546)	68865
Effective July 1, 2005, or as soon thereafter as possible,	68866
the Director of Budget and Management shall transfer the cash	68867
balance in the Fire Marshal's Fireworks Training and Education	68868
Fund (Fund 4L5), which is abolished in division (B) of section	68869
3743.57 of the Revised Code as amended by this act, to the State	68870
Fire Marshal's Fund (Fund 546), which is created in section	68871
3737.71 of the Revised Code. The director shall cancel any	68872
existing encumbrances against appropriation item 800-609,	68873
Fireworks Training and Education, in Fund 4L5, and re-establish	68874
them against appropriation item 800-610, Fire Marshal, in Fund	68875

546. The amounts of the re-established encumbrances are hereby 68876
appropriated. 68877

CASH TRANSFER TO BUDGET STABILIZATION FUND 68878

Notwithstanding any other law to the contrary, the Director 68879
of Budget and Management shall transfer up to \$1,700,000 in cash 68880
in fiscal year 2006 and up to \$1,600,000 in cash in fiscal year 68881
2007 from the State Fire Marshal Fund (Fund 546) to the Budget 68882
Stabilization Fund. 68883

FIRE DEPARTMENT GRANTS 68884

Of the foregoing appropriation item 800-639, Fire Department 68885
Grants, up to \$760,000 in each fiscal year shall be used to make 68886
annual grants to volunteer fire departments of up to \$10,000, or 68887
up to \$25,000 if the volunteer fire department provides service 68888
for an area affected by a natural disaster. The grant program 68889
shall be administered by the Fire Marshal under the Department of 68890
Commerce. The Fire Marshal shall adopt rules as are necessary for 68891
the administration and operation of the grant program. 68892

Of the foregoing appropriation item 800-639, Fire Department 68893
Grants, up to \$687,140 in each fiscal year shall be used as full 68894
or partial reimbursement to local units of government and fire 68895
departments for the cost of firefighter training and equipment or 68896
gear. Under rules that the department shall adopt, a local unit of 68897
government or fire department may apply to the department for a 68898
grant to cover all documented costs that are incurred to provide 68899
firefighter training and equipment or gear. The department shall 68900
make grants within the limits of the funding provided, with 68901
priority given to fire departments that serve small villages and 68902
townships. 68903

Of the foregoing appropriation item 800-639, Fire Department 68904
Grants, up to \$200,000 in each fiscal year shall be used to make 68905
grants to fire departments to assist in the conversion of existing 68906

data systems to the NFIRS 5 electronic fire reporting system. 68907
Under rules that the department shall adopt, awards shall have a 68908
maximum of \$50,000 per fire department and shall be based on a 68909
point system that includes factors such as consideration of the 68910
fire department's information technology and operating budgets, 68911
population and area served, number of incidents, data conversion 68912
and implementation methods, and readiness. 68913

CASH TRANSFER TO REAL ESTATE OPERATING FUND 68914

At the request of the Director of Commerce, the Director of 68915
Budget and Management may transfer up to \$100,000 in cash from the 68916
Real Estate Recovery Fund (Fund 548) and up to \$350,000 in cash 68917
from the Real Estate Appraiser Recovery Fund (Fund 4B2) to the 68918
Real Estate Operating Fund (Fund 549) during the 2005-2007 68919
biennium. 68920

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING 68921

The foregoing appropriation item 800-601, Merchandising, 68922
shall be used under section 4301.12 of the Revised Code. If it is 68923
determined that additional amounts are necessary, the amounts are 68924
hereby appropriated. 68925

DEVELOPMENT ASSISTANCE DEBT SERVICE 68926

The foregoing appropriation item 800-633, Development 68927
Assistance Debt Service, shall be used to meet all payments at the 68928
times they are required to be made during the period from July 1, 68929
2005, to June 30, 2007, for bond service charges on obligations 68930
issued under Chapter 166. of the Revised Code. If it is determined 68931
that additional appropriations are necessary for this purpose, 68932
such amounts are hereby appropriated, subject to the limitations 68933
set forth in section 166.11 of the Revised Code. The General 68934
Assembly acknowledges that an appropriation for this purpose is 68935
not required, but is made in this form and in this act for record 68936
purposes only. 68937

REVITALIZATION DEBT SERVICE				68938	
The foregoing appropriation item 800-636, Revitalization Debt				68939	
Service, shall be used to pay debt service and related financing				68940	
costs under sections 151.01 and 151.40 of the Revised Code during				68941	
the period from July 1, 2005, to June 30, 2007. If it is				68942	
determined that additional appropriations are necessary for this				68943	
purpose, such amounts are hereby appropriated. The General				68944	
Assembly acknowledges the priority of the pledge of a portion of				68945	
receipts from that source to obligations issued and to be issued				68946	
under Chapter 166. of the Revised Code.				68947	
ADMINISTRATIVE ASSESSMENTS				68948	
Notwithstanding any other provision of law to the contrary,				68949	
Fund 163, Division of Administration, is entitled to receive				68950	
assessments from all operating funds of the department in				68951	
accordance with procedures prescribed by the Director of Commerce				68952	
and approved by the Director of Budget and Management.				68953	
Section 203.78. OCC OFFICE OF CONSUMERS' COUNSEL				68954	
General Services Fund Group				68955	
5F5 053-601 Operating Expenses	\$	7,770,000	\$	7,770,000	68956
TOTAL GSF General Services Fund	\$	7,770,000	\$	7,770,000	68957
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	7,770,000	\$	7,770,000	68958
Section 203.81. CEB CONTROLLING BOARD				68960	
General Revenue Fund				68961	
GRF 911-401 Emergency	\$	12,150,000	\$	7,000,000	68962
Purposes/Contingencies					
GRF 911-404 Mandate Assistance	\$	650,000	\$	650,000	68963
GRF 911-417 Educational Technology	\$	27,942,693	\$	27,942,693	68964
Fund					

GRF 911-441	Ballot Advertising	\$	300,000	\$	300,000	68965
	Costs					
TOTAL GRF	General Revenue Fund	\$	41,042,693	\$	35,892,693	68966
	General Services Fund Group					68967
4F3 911-603	Affiliate Services	\$	2,000,000	\$	2,000,000	68968
4T2 911-604	Government	\$	150,000	\$	150,000	68969
	Television/Telecommunication					
	Operating					
5D4 911-605	Conference/Special	\$	1,350,000	\$	1,350,000	68970
	Purpose Expenses					
TOTAL GSF	General Services Fund	\$	3,500,000	\$	3,500,000	68971
	Group					
	Federal Special Revenue Fund Group					68972
3S3 911-610	Technology Literacy	\$	589,363	\$	589,363	68973
	Challenge					
TOTAL FED	Federal Special Revenue	\$	589,363	\$	589,363	68974
	Fund Group					
	State Special Revenue Fund Group					68975
4W9 911-607	Ohio Telecommunity	\$	50,000	\$	25,000	68976
	Fund					
4X1 911-608	Distance Learning	\$	250,000	\$	100,000	68977
5T3 911-609	Gates Foundation	\$	600,000	\$	200,000	68978
	Grants					
TOTAL SSR	State Special					68979
	Revenue Fund Group	\$	900,000	\$	325,000	68980
TOTAL ALL BUDGET FUND GROUPS		\$	46,032,056	\$	40,307,056	68981
	FEDERAL SHARE					68982
	In transferring appropriations to or from appropriation items					68983
	that have federal shares identified in this act, the Controlling					68984
	Board shall add or subtract corresponding amounts of federal					68985
	matching funds at the percentages indicated by the state and					68986

federal division of the appropriations in this act. Such changes
are hereby appropriated.

DISASTER ASSISTANCE

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

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

(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. 69017

(B) The Division of Criminal Justice Services in the 69018
Department of Public Safety and the Department of Education may 69019
prepare and submit to the Controlling Board one or more requests 69020
to transfer appropriations from appropriation item 911-404, 69021
Mandate Assistance. The state agencies charged with this 69022
administrative responsibility are listed below, as well as the 69023
estimated annual amounts that may be used for each program of 69024
state financial assistance. 69025

	ADMINISTERING	ESTIMATED ANNUAL	
PROGRAM	AGENCY	AMOUNT	
Prosecution Costs	Division of Criminal	\$150,000	69028
	Justice Services		69029
Child Abuse Detection	Department of	\$500,000	69030
Training Costs	Education		

(C) Subject to the total amount appropriated in each fiscal 69031
year for appropriation item 911-404, Mandate Assistance, the 69032
Division of Criminal Justice Services in the Department of Public 69033
Safety and the Department of Education may request from the 69034
Controlling Board that amounts smaller or larger than these 69035
estimated annual amounts be transferred to each program. 69036

(D) In addition to making the initial transfers requested by 69037
the Division of Criminal Justice Services in the Department of 69038
Public Safety and the Department of Education, the Controlling 69039
Board may transfer appropriations received by a state agency under 69040
this section back to appropriation item 911-404, Mandate 69041
Assistance, or to the other program of state financial assistance 69042
identified under this section. 69043

(E) It is expected that not all costs incurred by local units 69044
of government and school districts under each of the two programs 69045
of state financial assistance identified in this section will be 69046

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
Department of Education and provided by the Controlling Board for
each of the programs; the rules and procedures established for
each program by the administering state agency; and the actual
costs incurred by local units of government and school districts.

(F) Each of these programs of state financial assistance
shall be carried out as follows:

(1) PROSECUTION COSTS

(a) Appropriations may be transferred to the Division of
Criminal Justice Services in the Department of Public Safety to
cover local prosecution costs for aggravated murder, murder,
felonies of the first degree, and felonies of the second degree
that occur on the grounds of institutions operated by the
Department of Rehabilitation and Correction and the Department of
Youth Services.

(b) Upon a delinquency filing in juvenile court or the return
of an indictment for aggravated murder, murder, or any felony of
the first or second degree that was committed at a Department of
Youth Services or a Department of Rehabilitation and Correction
institution, the affected county may, in accordance with rules
that the Division of Criminal Justice Services in the Department
of Public Safety shall adopt, apply to the Division of Criminal
Justice Services for a grant to cover all documented costs that
are incurred by the county prosecutor's office.

(c) Twice each year, the Division of Criminal Justice
Services in the Department of Public Safety shall designate
counties to receive grants from those counties that have submitted
one or more applications in compliance with the rules that have

been adopted by the Division of Criminal Justice Services for the receipt of such grants. In each year's first round of grant awards, if sufficient appropriations have been made, up to a total 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 69109
counties in providing defense to indigent defendants pursuant to 69110
Chapter 120. of the Revised Code. Application for the unutilized 69111
funds shall be made by the Ohio Public Defender Commission at the 69112
first June meeting of the Controlling Board. 69113

The amount to be disbursed to each county shall be allocated 69114
proportionately on the basis of the total amount of reimbursement 69115
paid to each county as a percentage of the amount of reimbursement 69116
paid to all of the counties during the most recent state fiscal 69117
year for which data is available and as calculated by the Ohio 69118
Public Defender Commission. 69119

RADIO READING SERVICES 69120

Of the foregoing appropriation item 911-417, Educational 69121
Technology Fund, \$45,000 in each fiscal year shall be used for a 69122
competitive grant for dial-up newspaper reading services for the 69123
blind and physically handicapped. 69124

BALLOT ADVERTISING COSTS 69125

Pursuant to requests submitted by the Ohio Ballot Board, the 69126
Controlling Board shall approve transfers from the foregoing 69127
appropriation item 911-441, Ballot Advertising Costs, to an Ohio 69128
Ballot Board appropriation item in order to reimburse county 69129
boards of elections for the cost of public notices associated with 69130
statewide ballot initiatives. 69131

Section 203.84. COS STATE BOARD OF COSMETOLOGY 69132

General Services Fund Group 69133

4K9 879-609 Operating Expenses \$ 2,929,630 \$ 0 69134

TOTAL GSF General Services Fund 69135

Group \$ 2,929,630 \$ 0 69136

TOTAL ALL BUDGET FUND GROUPS \$ 2,929,630 \$ 0 69137

Section 203.87.	CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE			69139
	AND FAMILY THERAPIST BOARD			69140
	General Services Fund Group			69141
4K9 899-609	Operating Expenses	\$ 1,058,445	\$ 0	69142
TOTAL GSF	General Services Fund			69143
Group		\$ 1,058,445	\$ 0	69144
TOTAL ALL BUDGET FUND GROUPS		\$ 1,058,445	\$ 0	69145
Section 203.90.	CLA COURT OF CLAIMS			69147
	General Revenue Fund			69148
GRF 015-321	Operating Expenses	\$ 2,598,040	\$ 2,678,331	69149
TOTAL GRF	General Revenue Fund	\$ 2,598,040	\$ 2,678,331	69150
	State Special Revenue Fund Group			69151
5K2 015-603	CLA Victims of Crime	\$ 1,582,684	\$ 1,582,684	69152
TOTAL SSR	State Special Revenue			69153
Fund Group		\$ 1,582,684	\$ 1,582,684	69154
TOTAL ALL BUDGET FUND GROUPS		\$ 4,180,724	\$ 4,261,015	69155
Section 203.93.	DEN STATE DENTAL BOARD			69157
	General Services Fund Group			69158
4K9 880-609	Operating Expenses	\$ 1,424,791	\$ 1,424,791	69159
TOTAL GSF	General Services Fund			69160
Group		\$ 1,424,791	\$ 1,424,791	69161
TOTAL ALL BUDGET FUND GROUPS		\$ 1,424,791	\$ 1,424,791	69162
Section 203.96.	BDP BOARD OF DEPOSIT			69164
	General Services Fund Group			69165
4M2 974-601	Board of Deposit	\$ 1,676,000	\$ 1,676,000	69166
TOTAL GSF	General Services Fund			69167
Group		\$ 1,676,000	\$ 1,676,000	69168
TOTAL ALL BUDGET FUND GROUPS		\$ 1,676,000	\$ 1,676,000	69169

BOARD OF DEPOSIT EXPENSE FUND				69170
Upon receiving certification of expenses from the Treasurer				69171
of State, the Director of Budget and Management shall transfer				69172
cash from the Investment Earnings Redistribution Fund (Fund 608)				69173
to the Board of Deposit Expense Fund (Fund 4M2). The latter fund				69174
shall be used to pay for banking charges and fees required for the				69175
operation of the State of Ohio Regular Account.				69176
Section 203.99. DEV DEPARTMENT OF DEVELOPMENT				69177
General Revenue Fund				69178
GRF 195-321 Operating Expenses	\$	2,688,908	\$ 2,688,908	69179
GRF 195-401 Thomas Edison Program	\$	15,454,838	\$ 15,454,838	69180
GRF 195-404 Small Business	\$	1,740,722	\$ 1,740,722	69181
Development				
GRF 195-405 Minority Business	\$	1,580,291	\$ 1,580,291	69182
Development Division				
GRF 195-407 Travel and Tourism	\$	6,812,845	\$ 6,712,845	69183
GRF 195-410 Defense Conversion	\$	300,000	\$ 200,000	69184
Assistance				
GRF 195-412 Business Development	\$	11,750,000	\$ 11,750,000	69185
Grants				
GRF 195-415 Economic Development	\$	5,794,975	\$ 5,894,975	69186
Division and Regional				
Offices				
GRF 195-416 Governor's Office of	\$	4,122,372	\$ 4,122,372	69187
Appalachia				
GRF 195-422 Third Frontier Action	\$	16,790,000	\$ 16,790,000	69188
Fund				
GRF 195-426 Clean Ohio	\$	300,000	\$ 300,000	69189
Implementation				
GRF 195-432 International Trade	\$	4,223,787	\$ 4,223,787	69190
GRF 195-434 Investment in Training	\$	12,227,500	\$ 12,227,500	69191

	Grants				
GRF 195-436	Labor/Management	\$	811,869	\$ 811,869	69192
	Cooperation				
GRF 195-497	CDBG Operating Match	\$	1,040,956	\$ 1,040,956	69193
GRF 195-498	State Match Energy	\$	94,000	\$ 94,000	69194
GRF 195-501	Appalachian Local	\$	380,080	\$ 380,080	69195
	Development Districts				
GRF 195-502	Appalachian Regional	\$	246,803	\$ 246,803	69196
	Commission Dues				
GRF 195-507	Travel and Tourism	\$	875,000	\$ 725,000	69197
	Grants				
GRF 195-515	Economic Development	\$	10,000,000	\$ 0	69198
	Contingency				
GRF 195-905	Third Frontier	\$	0	\$ 13,910,000	69199
	Research & Commercialization General Obligation Debt Service				
TOTAL GRF	General Revenue Fund	\$	97,234,946	\$ 100,894,946	69200
	General Services Fund Group				69201
135 195-605	Supportive Services	\$	7,450,000	\$ 7,539,686	69202
685 195-636	General Reimbursements	\$	1,000,000	\$ 1,000,000	69203
5AD 195-667	Investment in Training	\$	5,000,000	\$ 5,000,000	69204
	Expansion				
5AD 195-668	Worker Guarantee	\$	3,000,000	\$ 3,000,000	69205
	Program				
5AD 195-677	Economic Development	\$	0	\$ 10,000,000	69206
	Contingency				
TOTAL GSF	General Services Fund				69207
Group		\$	16,450,000	\$ 26,539,686	69208
	Federal Special Revenue Fund Group				69209
3AE 195-643	Workforce Development	\$	5,800,000	\$ 5,800,000	69210

		Initiatives				
3K8	195-613	Community Development	\$	65,000,000	\$	65,000,000 69211
		Block Grant				
3K9	195-611	Home Energy Assistance	\$	90,500,000	\$	90,500,000 69212
		Block Grant				
3K9	195-614	HEAP Weatherization	\$	16,219,478	\$	16,219,478 69213
3L0	195-612	Community Services	\$	25,235,000	\$	25,235,000 69214
		Block Grant				
3V1	195-601	HOME Program	\$	40,000,000	\$	40,000,000 69215
308	195-602	Appalachian Regional	\$	600,660	\$	600,660 69216
		Commission				
308	195-603	Housing and Urban	\$	5,000,000	\$	5,000,000 69217
		Development				
308	195-605	Federal Projects	\$	15,300,249	\$	15,300,249 69218
308	195-609	Small Business	\$	4,296,381	\$	4,296,381 69219
		Administration				
308	195-618	Energy Federal Grants	\$	3,397,659	\$	3,397,659 69220
335	195-610	Oil Overcharge	\$	3,000,000	\$	3,000,000 69221
TOTAL FED		Federal Special Revenue				69222
Fund Group			\$	274,349,427	\$	274,349,427 69223
State Special Revenue		Fund Group				69224
4F2	195-639	State Special Projects	\$	290,183	\$	290,183 69225
4F2	195-676	Promote Ohio	\$	5,000,000	\$	5,000,000 69226
4S0	195-630	Enterprise Zone	\$	275,000	\$	275,000 69227
		Operating				
4S1	195-634	Job Creation Tax	\$	375,800	\$	375,800 69228
		Credit Operating				
4W1	195-646	Minority Business	\$	2,580,597	\$	2,580,597 69229
		Enterprise Loan				
444	195-607	Water and Sewer	\$	523,775	\$	523,775 69230
		Commission Loans				
450	195-624	Minority Business	\$	53,967	\$	53,967 69231
		Bonding Program				

		Administration				
451	195-625	Economic Development	\$	2,358,311	\$	2,358,311 69232
		Financing Operating				
5CA	195-678	Shovel Ready Sites	\$	5,000,000	\$	5,000,000 69233
5M4	195-659	Universal Service	\$	210,000,000	\$	210,000,000 69234
5M5	195-660	Energy Efficiency Loan	\$	12,000,000	\$	12,000,000 69235
		and Grant				
5X1	195-651	Exempt Facility	\$	25,000	\$	25,000 69236
		Inspection				
611	195-631	Water and Sewer	\$	15,713	\$	15,713 69237
		Administration				
617	195-654	Volume Cap	\$	200,000	\$	200,000 69238
		Administration				
646	195-638	Low and Moderate	\$	46,000,000	\$	48,000,000 69239
		Income Housing Trust				
		Fund				
		TOTAL SSR State Special Revenue				69240
		Fund Group	\$	284,698,346	\$	286,698,346 69241
		Facilities Establishment Fund Group				69242
009	195-664	Innovation Ohio	\$	50,000,000	\$	50,000,000 69243
010	195-665	Research and	\$	50,000,000	\$	50,000,000 69244
		Development				
037	195-615	Facilities	\$	63,931,149	\$	63,931,149 69245
		Establishment				
4Z6	195-647	Rural Industrial Park	\$	3,000,000	\$	3,000,000 69246
		Loan				
5D2	195-650	Urban Redevelopment	\$	5,475,000	\$	5,475,000 69247
		Loans				
5H1	195-652	Family Farm Loan	\$	1,000,000	\$	1,000,000 69248
		Guarantee				
5S8	195-627	Rural Development	\$	3,000,000	\$	3,000,000 69249
		Initiative				
5S9	195-628	Capital Access Loan	\$	3,000,000	\$	3,000,000 69250

Program			
TOTAL 037 Facilities			69251
Establishment Fund Group	\$ 179,406,149	\$ 179,406,149	69252
Clean Ohio Revitalization Fund			69253
003 195-663 Clean Ohio Operating	\$ 350,000	\$ 350,000	69254
TOTAL 003 Clean Ohio Revitalization Fund	\$ 350,000	\$ 350,000	69255
TOTAL ALL BUDGET FUND GROUPS	\$ 852,488,868	\$ 868,238,554	69256

Section 203.99.03. THOMAS EDISON PROGRAM 69258

The foregoing appropriation item 195-401, Thomas Edison Program, shall be used for the purposes of sections 122.28 to 122.38 of the Revised Code in order to provide funds for cooperative public and private efforts in technological innovation to promote the development and transfer of technology by and to Ohio businesses that will lead to the creation of jobs, and to provide for the administration of the program by the Technology Division. 69259-69266

Of the foregoing appropriation item 195-401, Thomas Edison Program, not more than \$2,000,000 in fiscal year 2006 and \$2,300,000 in fiscal year 2007 shall be used for operating expenditures in administering the programs of the Technology Division. 69267-69271

The Department of Development, in consultation with the Third Frontier Commission, shall develop a plan providing for appropriate, value-added participation of Edison Centers and Incubators in Third Frontier Project proposals and grants. 69272-69275

The Department of Development shall work with Edison Centers and Incubators and the Third Frontier Network, when appropriate, to provide for Third Frontier Network connections to Edison Centers and Incubators and their tenants and, as appropriate, 69276-69279

clients. 69280

Section 203.99.06. SMALL BUSINESS DEVELOPMENT 69281

The foregoing appropriation item 195-404, Small Business 69282
Development, shall be used to ensure that the unique needs and 69283
concerns of small businesses are addressed. 69284

The foregoing appropriation item 195-404, Small Business 69285
Development, may be used to provide grants to local organizations 69286
to support the operation of Small Business Development Centers and 69287
other local economic development activity promoting small 69288
business, and for the cost of administering the small business 69289
development center program. The centers shall provide technical, 69290
financial, and management consultation for small business and 69291
shall facilitate access to state and federal programs. These funds 69292
shall be used as matching funds for grants from the United States 69293
Small Business Administration and other federal agencies, pursuant 69294
to Public Law No. 96-302 (1980) as amended by Public Law No. 69295
98-395 (1984), and regulations and policy guidelines for the 69296
programs under this law. 69297

In addition, the Office of Small Business may operate the 69298
1st-Stop Business Connection and implement and coordinate the 69299
duties imposed on the Department of Development by Am. Sub. S.B. 69300
239 of the 115th General Assembly. 69301

MINORITY BUSINESS DEVELOPMENT DIVISION 69302

Of the foregoing appropriation item 195-405, Minority 69303
Business Development Division, up to \$1,060,000 but not less than 69304
\$954,000 in each fiscal year shall be used to fund minority 69305
contractors and business assistance organizations. The Minority 69306
Business Development Division shall determine which cities need 69307
minority contractors and business assistance organizations by 69308
utilizing United States Census Bureau data and zip codes to locate 69309

the highest concentrations of minority businesses. The Minority
Business Development Division also shall determine the numbers of
minority contractors and business assistance organizations
necessary and the amount of funding to be provided each. In
addition, the Minority Business Development Division shall
continue to plan and implement business conferences.

Section 203.99.09. BUSINESS DEVELOPMENT 69316

The foregoing appropriation item 195-412, Business
Development Grants, shall be used as an incentive for attracting
and retaining business opportunities for the state. Any such
business opportunity, whether new, expanding, or relocating in
Ohio, is eligible for funding. The project must create or retain a
significant number of jobs for Ohioans. Grant awards may be
considered only when (1) the project's viability hinges on an
award of funds from appropriation item 195-412, Business
Development Grants; (2) all other public or private sources of
financing have been considered; or (3) the funds act as a catalyst
for the infusion into the project of other financing sources.

The department's primary goal shall be to award funds to
political subdivisions of the state for off-site infrastructure
improvements. In order to meet the particular needs of economic
development in a region, the department may elect to award funds
directly to a business for on-site infrastructure improvements.
"Infrastructure improvements" mean improvements to water system
facilities, sewer and sewage treatment facilities, electric or gas
service facilities, fiber optic facilities, rail facilities, site
preparation, and parking facilities. The Director of Development
may recommend the funds be used in an alternative manner when
considered appropriate to meet an extraordinary economic
development opportunity or need.

The foregoing appropriation item 195-412, Business 69340

Development Grants, may be expended only after the submission of a request to the Controlling Board by the Department of Development outlining the planned use of the funds, and the subsequent approval of the request by the Controlling Board.

The foregoing appropriation item 195-412, Business Development Grants, may be used for, but is not limited to, construction, rehabilitation, and acquisition projects for rail freight assistance as requested by the Department of Transportation. The Director of Transportation shall submit the proposed projects to the Director of Development for an evaluation of potential economic benefit.

Section 203.99.12. ECONOMIC DEVELOPMENT DIVISION AND REGIONAL OFFICES

The foregoing appropriation item 195-415, Economic Development Division and Regional Offices, shall be used for the operating expenses of the Economic Development Division and the regional economic development offices and for grants for cooperative economic development ventures.

Section 203.99.15. GOVERNOR'S OFFICE OF APPALACHIA

The foregoing appropriation item 195-416, Governor's Office of Appalachia, shall be used for the administrative costs of planning and liaison activities for the Governor's Office of Appalachia. Funds not expended for planning and liaison activities may be expended for special project grants within the Appalachian Region.

Of the foregoing appropriation item 195-416, Governor's Office of Appalachia, up to \$250,000 each fiscal year shall be used to match federal funds from the Appalachian Regional Commission to provide job training to impact the Appalachian Region.

Of the foregoing appropriation item 195-416, Governor's Office of Appalachia, up to \$4,122,372 in each fiscal year shall be used in conjunction with other federal and state funds to provide financial assistance to projects in Ohio's Appalachian counties in order to further the goals of the Appalachian Regional Commission. The projects and project sponsors shall meet Appalachian Regional Commission eligibility requirements. Grants shall be administered by the Department of Development.

Section 203.99.18. THIRD FRONTIER ACTION FUND

The foregoing appropriation item 195-422, Third Frontier Action Fund, shall be used to make grants under sections 184.01 and 184.02 of the Revised Code. Prior to the release of funds from appropriation item 195-422, Third Frontier Action Fund, each grant award shall be recommended for funding by the Third Frontier Commission and obtain approval from the Controlling Board.

Of the foregoing appropriation item 195-422, Third Frontier Action Fund, not more than six per cent in each fiscal year shall be used for operating expenditures in administering the program.

In addition to the six per cent for operating expenditures, an additional administrative amount, not to exceed \$1,500,000 within the biennium, shall be available for proposal evaluation, research and analyses, and marketing efforts considered necessary to receive and disseminate information about science and technology-related opportunities in the state.

SCIENCE AND TECHNOLOGY COLLABORATION

The Department of Development shall work in close collaboration with the Board of Regents, the Air Quality Development Authority, and the Third Frontier Commission in relation to appropriation items and programs referred to as Alignment Programs in the following paragraph, and other

technology-related appropriations and programs in the Department
of Development, Air Quality Development Authority, and the Board
of Regents as these agencies may designate, to ensure
implementation of a coherent state strategy with respect to
science and technology.

"Alignment Programs" means appropriation items 195-401,
Thomas Edison Program; 898-402, Coal Development Office; 195-422,
Third Frontier Action Fund; 898-604, Coal Research and Development
Fund; 235-433, Economic Growth Challenge; 235-508, Air Force
Institute of Technology; 235-510, Ohio Supercomputer Center;
235-451, Eminent Scholars; 235-527, Ohio Aerospace Institute;
235-535, Ohio Agricultural Research and Development Center;
235-553, Dayton Area Graduate Studies Institute; 235-554,
Priorities in Collaborative Graduate Education; 235-556, Ohio
Academic Resources Network; and 195-435, Biomedical Research and
Technology Transfer Trust.

Consistent with the recommendations of the Governor's
Commission on Higher Education and the Economy, Alignment Programs
shall be managed and administered in accordance with the following
objectives: (1) to build on existing competitive research
strengths; (2) to encourage new and emerging discoveries and
commercialization of products and ideas that will benefit the Ohio
economy; (3) and to assure improved collaboration among Alignment
Programs with programs administered by the Third Frontier
Commission and with other state programs that are intended to
improve economic growth and job creation. As directed by the Third
Frontier Commission, Alignment Program managers shall report to
the Commission or the Third Frontier Advisory Board regarding the
contributions of their programs to achieving these objectives.

Each Alignment Program shall be reviewed annually by the
Third Frontier Commission with respect to its development of
complementary relationships within a combined state science and

technology investment portfolio, and with respect to its overall
contribution to the state's science and technology strategy,
including the adoption of appropriately consistent criteria for:
(1) the scientific merit of activities supported by the program;
(2) the relevance of the program's activities to commercial
opportunities 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 expenditures of
state funds. Each Alignment Program shall provide an annual report
to the Third Frontier Commission that discusses existing, planned,
or possible collaborations between programs and between recipients
of grant funding related to technology, development,
commercialization, and the support of Ohio's economic development.
The annual review conducted 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.

Applicants for Third Frontier and Alignment Programs funding
shall identify their requirements for high-performance computing
facilities and services, including both hardware and software, in
all proposals. If an applicant's requirements exceed approximately
\$100,000 for a proposal, the Ohio Supercomputer Center shall
convene a panel of experts. The panel shall review the proposal to
determine whether the proposal's requirements can be met through
Ohio Supercomputer Center facilities or through other means and
report such information to the Third Frontier Commission.

To ensure that the state receives the maximum benefit from
its investment in the Third Frontier Project and the Third
Frontier Network, organizations receiving Third Frontier awards

and Alignment Programs awards shall, as appropriate, be expected 69465
to have a connection to the Third Frontier Network that enables 69466
them and their collaborators to achieve award objectives through 69467
the Third Frontier Network. 69468

Section 203.99.21. INTERNATIONAL TRADE 69469

The foregoing appropriation item 195-432, International 69470
Trade, shall be used to operate and to maintain Ohio's 69471
out-of-state trade offices. 69472

The Director of Development may enter into contracts with 69473
foreign nationals to staff foreign offices. The contracts may be 69474
paid in local currency or United States currency and shall be 69475
exempt from section 127.16 of the Revised Code. The director also 69476
may establish foreign currency accounts under section 122.05 of 69477
the Revised Code for the payment of expenses related to the 69478
operation and maintenance of the foreign trade offices. 69479

The foregoing appropriation item 195-432, International 69480
Trade, shall be used to fund the International Trade Division and 69481
to assist Ohio manufacturers and agricultural producers in 69482
exporting to foreign countries in conjunction with the Department 69483
of Agriculture. 69484

Of the foregoing appropriation item 195-432, International 69485
Trade, up to \$35,000 may be used to purchase gifts for 69486
representatives of foreign governments or dignitaries of foreign 69487
countries. 69488

Section 203.99.24. OHIO INVESTMENT IN TRAINING PROGRAM 69489

The foregoing appropriation items 195-434, Investment in 69490
Training Grants, and 195-667, Investment in Training Expansion, 69491
shall be used to promote training through grants for the 69492
reimbursement of eligible training expenses. 69493

Section 203.99.27. CDBG OPERATING MATCH 69494

The foregoing appropriation item 195-497, CDBG Operating 69495
Match, shall be used to provide matching funds as requested by the 69496
United States Department of Housing and Urban Development to 69497
administer the federally funded Community Development Block Grant 69498
(CDBG) program. 69499

STATE OPERATING MATCH 69500

The foregoing appropriation item 195-498, State Match Energy, 69501
shall be used to provide matching funds as required by the United 69502
States Department of Energy to administer the federally funded 69503
State Energy Plan. 69504

Section 203.99.30. TRAVEL AND TOURISM GRANTS 69505

The foregoing appropriation item 195-507, Travel and Tourism 69506
Grants, shall be used to provide grants to local organizations to 69507
support various local travel and tourism events in Ohio. 69508

Of the foregoing appropriation item 195-507, Travel and 69509
Tourism Grants, \$25,000 in fiscal year 2006 shall be used for the 69510
Lorain County Visitors Bureau. 69511

Of the foregoing appropriation item 195-507, Travel and 69512
Tourism Grants, \$50,000 in each fiscal year shall be used for the 69513
Greene County Convention and Visitors Bureau. 69514

Of the foregoing appropriation item 195-507, Travel and 69515
Tourism Grants, \$45,000 in each fiscal year shall be used for the 69516
Warren County Convention and Visitors Bureau. 69517

Of the foregoing appropriation item 195-507, Travel and 69518
Tourism Grants, \$50,000 in each fiscal year shall be used for the 69519
Wright Dunbar Historical Site. 69520

Of the foregoing appropriation item 195-507, Travel and 69521

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.

Of the foregoing appropriation item 195-507, Travel and
Tourism Grants, up to \$500,000 in each fiscal year shall be used
for grants to The International Center for the Preservation of
Wild Animals.

Of the foregoing appropriation item 195-507, Travel and
Tourism Grants, \$25,000 in fiscal year 2006 shall be used for the
Ohio Buckeye Junior Hereford Association.

Of the foregoing appropriation item 195-507, Travel and
Tourism Grants, \$100,000 in fiscal year 2006 shall be used for
grants to the NCR U.S Open.

Section 203.99.33. THIRD FRONTIER RESEARCH &
COMMERCIALIZATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195-905, Third Frontier
Research & Commercialization General Obligation Debt Service,
shall be used to pay all debt service and related financing costs
during the period from July 1, 2005, to June 30, 2007, on
obligations to be issued for research and development purposes, as
authorized by the Ohio Constitution and implementing statutes. The
Office of the Sinking Fund or the Director of Budget and
Management shall effectuate the required payments by intrastate
transfer voucher.

Section 203.99.36. SUPPORTIVE SERVICES

The Director of Development may assess divisions of the
department for the cost of central service operations. An
assessment shall be based on a plan submitted to and approved by
the Office of Budget and Management by August 1, 2005, and shall

contain the characteristics of administrative ease and uniform application. 69551
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A division's payments shall be credited to the Supportive Services Fund (Fund 135) using an intrastate transfer voucher. 69553
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GENERAL REIMBURSEMENT 69555

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. 69556
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WORKER GUARANTEE PROGRAM 69562

The foregoing appropriation item 195-668, Worker Guarantee Program, shall be used for the Worker Guarantee Program. 69563
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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. 69565
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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. 69574
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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 69579
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any local workforce development service provider, in conjunction 69581
with the local community, contracts with the Department of 69582
Development to provide services under the program. The employer 69583
and the local community each shall provide matching funds totaling 69584
one-third of a project's cost, and each portion of the matching 69585
funds shall be equal to state funding, which also shall be 69586
one-third of a project's cost. 69587

The state shall count in-kind contributions when determining 69588
a contribution from entities associated with the local community. 69589

The Director of Development, under Chapter 119. of the 69590
Revised Code, shall adopt, and may amend or rescind, rules the 69591
Director finds necessary for the implementation and successful 69592
operation of the Worker Guarantee Program. 69593

Section 203.99.37. TRAINING SERVICES 69594

Of the foregoing appropriation item 195-605, Federal 69595
Projects, \$400,000 in each fiscal year shall be used for grants to 69596
the Ohio Weatherization Training Center, administered by the 69597
Corporation for Ohio Appalachian Development, for training and 69598
technical assistance services. 69599

Section 203.99.39. HEAP WEATHERIZATION 69600

Fifteen per cent of the federal funds received by the state 69601
for the Home Energy Assistance Block Grant shall be deposited in 69602
appropriation item 195-614, HEAP Weatherization (Fund 3K9), and 69603
shall be used to provide home weatherization services in the 69604
state. 69605

Of the foregoing appropriation item 195-614, HEAP 69606
Weatherization, \$200,000 in each fiscal year shall be used for 69607
grants to the Ohio Weatherization Training Center, administered by 69608
the Corporation for Ohio Appalachian Development, for training and 69609

technical assistance services. 69610

STATE SPECIAL PROJECTS 69611

The foregoing fund, Fund 4F2, State Special Projects, shall 69612
be used for the deposit of private-sector funds from utility 69613
companies and for the deposit of other miscellaneous state funds. 69614
Private-sector moneys shall be used to (1) pay the expenses of 69615
verifying the income-eligibility of HEAP applicants, (2) market 69616
economic development opportunities in the state, and (3) leverage 69617
additional federal funds. State funds shall be used to match 69618
federal housing grants for the homeless and to market economic 69619
development opportunities in the state. 69620

Section 203.99.42. MINORITY BUSINESS ENTERPRISE LOAN 69621

All repayments from the Minority Development Financing 69622
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 69623
Program shall be deposited in the State Treasury to the credit of 69624
the Minority Business Enterprise Loan Fund (Fund 4W1). 69625

All operating costs of administering the Minority Business 69626
Enterprise Loan Fund shall be paid from the Minority Business 69627
Enterprise Loan Fund (Fund 4WI). 69628

MINORITY BUSINESS BONDING FUND 69629

Notwithstanding Chapters 122., 169., and 175. of the Revised 69630
Code and other provisions of Am. Sub. H.B. 283 of the 123rd 69631
General Assembly, the Director of Development may, upon the 69632
recommendation of the Minority Development Financing Advisory 69633
Board, pledge up to \$10,000,000 in the FY 2006-2007 biennium of 69634
unclaimed funds administered by the Director of Commerce and 69635
allocated to the Minority Business Bonding Program under section 69636
169.05 of the Revised Code. The transfer of any cash by the 69637
Director of Budget and Management from the Department of 69638
Commerce's Unclaimed Funds Fund (Fund 543) to the Department of 69639

Development's Minority Business Bonding Fund (Fund 449) shall
occur, if requested by the Director of Development, only if such
funds are needed for payment of losses arising from the Minority
Business Bonding Program, and only after proceeds of the initial
transfer of \$2,700,000 by the Controlling Board to the Minority
Business Bonding Program has been used for that purpose. Moneys
transferred by the Director of Budget and Management from the
Department of Commerce for this purpose may be moneys in custodial
funds held by the Treasurer of State. If expenditures are required
for payment of losses arising from the Minority Business Bonding
Program, such expenditures shall be made from appropriation item
195-623, Minority Business Bonding Contingency in the Minority
Business Bonding Fund, and such amounts are appropriated.

Section 203.99.45. ECONOMIC DEVELOPMENT FINANCING OPERATING

The foregoing appropriation item 195-625, Economic
Development Financing Operating, shall be used for the operating
expenses of financial assistance programs authorized under Chapter
166. of the Revised Code and under sections 122.43 and 122.45 of
the Revised Code.

VOLUME CAP ADMINISTRATION

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

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 69670
energy efficiency and customer education services to PIPP 69671
customers, and to cover the department's administrative costs 69672
related to Universal Service Fund Programs. 69673

The foregoing appropriation item 195-678, Shovel Ready Sites, 69674
shall be used to administer the Shovel Ready Sites Program under 69675
section 122.083 of the Revised Code. 69676

ENERGY EFFICIENCY LOAN AND GRANT FUND 69677

The foregoing appropriation item 195-660, Energy Efficiency 69678
Loan and Grant, shall be used to provide financial assistance to 69679
customers for eligible energy efficiency projects for residential, 69680
commercial and industrial business, local government, educational 69681
institution, nonprofit, and agriculture customers, and to pay for 69682
the program's administrative costs as provided in the Revised Code 69683
and rules adopted by the Director of Development. 69684

GLOBAL ANALYST SETTLEMENT AGREEMENTS PAYMENTS 69685

All payments received by the state pursuant to a series of 69686
settlements with ten brokerage firms reached with the United 69687
States Securities and Exchange Commission, the National 69688
Association of Securities Dealers, the New York Stock Exchange, 69689
the New York Attorney General, and other state regulators 69690
(henceforth referred to as the "Global Analysts Settlement 69691
Agreements"), shall be deposited into the state treasury to the 69692
credit of the Economic Development Contingency Fund (Fund 5Y6), 69693
which is hereby created in the state treasury. The fund shall be 69694
used by the Director of Development to support economic 69695
development projects for which appropriations would not otherwise 69696
be available, and shall be subject to the submission of a request 69697
to the Controlling Board by the Director outlining the planned use 69698
of the funds, and the subsequent approval of the request by the 69699
Controlling Board. 69700

Section 203.99.48. FACILITIES ESTABLISHMENT FUND 69701

The foregoing appropriation item 195-615, Facilities 69702
Establishment (Fund 037), shall be used for the purposes of the 69703
Facilities Establishment Fund under Chapter 166. of the Revised 69704
Code. 69705

Notwithstanding Chapter 166. of the Revised Code, up to 69706
\$1,800,000 in cash each fiscal year may be transferred from the 69707
Facilities Establishment Fund (Fund 037) to the Economic 69708
Development Financing Operating Fund (Fund 451). The transfer is 69709
subject to Controlling Board approval under division (B) of 69710
section 166.03 of the Revised Code. 69711

Notwithstanding Chapter 166. of the Revised Code, up to 69712
\$5,000,000 in cash each fiscal year may be transferred from the 69713
Facilities Establishment Fund (Fund 037) to the Shovel Ready Sites 69714
Fund (Fund 5CA). The transfer is subject to Controlling Board 69715
approval under division (B) of section 166.03 of the Revised Code. 69716

Notwithstanding Chapter 166. of the Revised Code, up to 69717
\$10,950,000 in cash may be transferred during the biennium from 69718
the Facilities Establishment Fund (Fund 037) to the Urban 69719
Redevelopment Loans Fund (Fund 5D2) for the purpose of removing 69720
barriers to urban core redevelopment. The Director of Development 69721
shall develop program guidelines for the transfer and release of 69722
funds, including, but not limited to, the completion of all 69723
appropriate environmental assessments before state assistance is 69724
committed to a project. 69725

Notwithstanding Chapter 166. of the Revised Code, up to 69726
\$3,000,000 each fiscal year in cash may be transferred from the 69727
Facilities Establishment Fund (Fund 037) to the Rural Industrial 69728
Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling 69729
Board approval under section 166.03 of the Revised Code. 69730

FAMILY FARM LOAN PROGRAM 69731

Notwithstanding Chapter 166. of the Revised Code, up to 69732
\$1,000,000 in each fiscal year shall be transferred from moneys in 69733
the Facilities Establishment Fund (Fund 037) to the Family Farm 69734
Loan Guarantee Fund (Fund 5H1) in the Department of Development. 69735
The moneys shall be used for loan guarantees. The transfer is 69736
subject to Controlling Board approval. 69737

Financial assistance from the Family Farm Loan Guarantee Fund 69738
(Fund 5H1) shall be repaid to Fund 5H1. This fund is established 69739
under sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the 69740
Revised Code. 69741

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to 69742
exist, all outstanding balances, all loan repayments, and any 69743
other outstanding obligations shall revert to the Facilities 69744
Establishment Fund (Fund 037). 69745

RURAL DEVELOPMENT INITIATIVE FUND 69746

(A)(1) The Rural Development Initiative Fund (Fund 5S8) is 69747
entitled to receive moneys from the Facilities Establishment Fund 69748
(Fund 037). The Director of Development may make grants from the 69749
Rural Development Initiative Fund as specified in division (A)(2) 69750
of this section to eligible applicants in Appalachian counties and 69751
in rural counties in the state that are designated as distressed 69752
under section 122.25 of the Revised Code. Preference shall be 69753
given to eligible applicants located in Appalachian counties 69754
designated as distressed by the federal Appalachian Regional 69755
Commission. The Rural Development Initiative Fund (Fund 5S8) shall 69756
cease to exist after June 30, 2007. All moneys remaining in the 69757
Fund after that date shall revert to the Facilities Establishment 69758
Fund (Fund 037). 69759

(2) The Director of Development shall make grants from the 69760
Rural Development Initiative Fund (Fund 5S8) only to eligible 69761

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	69793
The foregoing appropriation item 195-664, Innovation Ohio,	69794
shall be used to provide for innovation Ohio purposes, including	69795
loan guarantees and loans under Chapter 166. and particularly	69796
sections 166.12 to 166.16 of the Revised Code.	69797
RESEARCH AND DEVELOPMENT	69798
The foregoing appropriation item 195-665, Research and	69799
Development, shall be used to provide for research and development	69800
purposes, including loans, under Chapter 166. and particularly	69801
sections 166.17 to 166.21 of the Revised Code.	69802
Section 203.99.51. CLEAN OHIO OPERATING EXPENSES	69803
The foregoing appropriation item 195-663, Clean Ohio	69804
Operating, shall be used by the Department of Development in	69805
administering sections 122.65 to 122.658 of the Revised Code.	69806
Section 203.99.54. UNCLAIMED FUNDS TRANSFER	69807
(A) Notwithstanding division (A) of section 169.05 of the	69808
Revised Code, upon the request of the Director of Budget and	69809
Management, the Director of Commerce, prior to June 30, 2006,	69810
shall transfer to the Job Development Initiatives Fund (Fund 5AD)	69811
up to \$8,000,000 of the unclaimed funds that have been reported by	69812
the holders of unclaimed funds under section 169.05 of the Revised	69813
Code, regardless of the allocation of the unclaimed funds	69814
described under that section.	69815
Notwithstanding division (A) of section 169.05 of the Revised	69816
Code, upon the request of the Director of Budget and Management,	69817
the Director of Commerce, prior to June 30, 2007, shall transfer	69818
to the Job Development Initiatives Fund (Fund 5AD) up to	69819
\$18,000,000 of the unclaimed funds that have been reported by the	69820
holders of unclaimed funds under section 169.05 of the Revised	69821

Code, regardless of the allocation of the unclaimed funds 69822
described under that section. 69823

(B) Notwithstanding division (A) of section 169.05 of the 69824
Revised Code, upon the request of the Director of Budget and 69825
Management, the Director of Commerce, prior to June 30, 2006, 69826
shall transfer to the State Special Projects Fund (Fund 4F2) up to 69827
\$5,000,000 of the unclaimed funds that have been reported by the 69828
holders of unclaimed funds under section 169.05 of the Revised 69829
Code, regardless of the allocation of the unclaimed funds 69830
described under that section. 69831

Notwithstanding division (A) of section 169.05 of the Revised 69832
Code, upon the request of the Director of Budget and Management, 69833
the Director of Commerce, prior to June 30, 2007, shall transfer 69834
to the State Special Projects Fund (Fund 4F2) up to \$5,000,000 of 69835
the unclaimed funds that have been reported by the holders of 69836
unclaimed funds under section 169.05 of the Revised Code, 69837
regardless of the allocation of the unclaimed funds described 69838
under that section. 69839

Section 206.03. OBD OHIO BOARD OF DIETETICS 69840

General Services Fund Group				69841
4K9 860-609 Operating Expenses	\$	332,495	\$ 0	69842
TOTAL GSF General Services Fund				69843
Group	\$	332,495	\$ 0	69844
TOTAL ALL BUDGET FUND GROUPS	\$	332,495	\$ 0	69845

Section 206.06. CDR COMMISSION ON DISPUTE RESOLUTION AND 69847

CONFLICT MANAGEMENT				69848
General Revenue Fund				69849
GRF 145-401 Commission on Dispute	\$	470,000	\$ 470,000	69850
Resolution/Management				
TOTAL GRF General Revenue Fund	\$	470,000	\$ 470,000	69851

General Services Fund Group				69852
4B6 145-601 Gifts and Grants	\$	140,000	\$ 140,000	69853
TOTAL GSF General Services Fund Group	\$	140,000	\$ 140,000	69854
Federal Special Revenue Fund Group				69855
3S6 145-602 Dispute Resolution:	\$	140,000	\$ 140,000	69856
Federal				
TOTAL FED Federal Special Revenue Fund Group	\$	140,000	\$ 140,000	69857
TOTAL ALL BUDGET FUND GROUPS	\$	750,000	\$ 750,000	69858
Section 206.09. EDU DEPARTMENT OF EDUCATION				69860
General Revenue Fund				69861
GRF 200-100 Personal Services	\$	11,311,314	\$ 12,311,314	69862
GRF 200-320 Maintenance and Equipment	\$	4,996,249	\$ 4,996,249	69863
GRF 200-408 Early Childhood Education	\$	19,002,195	\$ 19,002,195	69864
GRF 200-410 Educator Training	\$	23,423,057	\$ 23,923,057	69865
GRF 200-420 Computer/Application/Network Development	\$	5,361,525	\$ 5,361,525	69866
GRF 200-421 Alternative Education Programs	\$	13,232,665	\$ 13,232,665	69867
GRF 200-422 School Management Assistance	\$	2,683,208	\$ 2,710,572	69868
GRF 200-424 Policy Analysis	\$	556,687	\$ 556,687	69869
GRF 200-425 Tech Prep Consortia Support	\$	2,069,217	\$ 2,069,217	69870
GRF 200-426 Ohio Educational Computer Network	\$	29,676,964	\$ 29,676,964	69871
GRF 200-427 Academic Standards	\$	10,540,753	\$ 10,612,181	69872
GRF 200-431 School Improvement	\$	19,862,484	\$ 23,191,663	69873

Initiatives						
GRF 200-433	Reading/Writing	\$	15,550,000	\$	15,550,000	69874
Improvement-Professional Development						
GRF 200-437	Student Assessment	\$	54,445,234	\$	60,011,935	69875
GRF 200-439	Accountability/Report	\$	3,878,850	\$	6,457,290	69876
Cards						
GRF 200-442	Child Care Licensing	\$	1,302,495	\$	1,302,495	69877
GRF 200-445	OhioReads Volunteer	\$	3,905,000	\$	3,905,000	69878
Support						
GRF 200-446	Education Management	\$	15,674,805	\$	15,674,805	69879
Information System						
GRF 200-447	GED Testing	\$	1,544,360	\$	1,544,360	69880
GRF 200-448	Educator Preparation	\$	1,651,000	\$	1,651,000	69881
GRF 200-455	Community Schools	\$	2,942,094	\$	2,942,094	69882
GRF 200-502	Pupil Transportation	\$	412,330,728	\$	420,577,343	69883
GRF 200-503	Bus Purchase Allowance	\$	8,600,000	\$	12,500,000	69884
GRF 200-505	School Lunch Match	\$	8,998,025	\$	8,998,025	69885
GRF 200-509	Adult Literacy	\$	8,539,738	\$	8,539,738	69886
Education						
GRF 200-511	Auxiliary Services	\$	127,903,356	\$	127,903,356	69887
GRF 200-514	Postsecondary Adult	\$	19,481,875	\$	19,481,875	69888
Career-Technical Education						
GRF 200-521	Gifted Pupil Program	\$	46,910,068	\$	47,157,293	69889
GRF 200-532	Nonpublic	\$	56,762,916	\$	58,068,463	69890
Administrative Cost Reimbursement						
GRF 200-540	Special Education	\$	133,894,606	\$	135,155,125	69891
Enhancements						
GRF 200-545	Career-Technical	\$	10,169,442	\$	9,225,569	69892
Education Enhancements						
GRF 200-550	Foundation Funding	\$	5,582,820,663	\$	5,692,271,366	69893

GRF 200-558	Emergency Loan	\$	1,388,164	\$	651,404	69894
	Interest Subsidy					
GRF 200-566	Reading/Writing	\$	12,062,336	\$	12,062,336	69895
	Improvement-Classroom					
	Grants					
GRF 200-578	Safe and Supportive	\$	1,218,555	\$	1,218,555	69896
	Schools					
GRF 200-901	Property Tax	\$	764,626,987	\$	728,793,318	69897
	Allocation - Education					
GRF 200-906	Tangible Tax Exemption	\$	42,830,487	\$	32,122,865	69898
	- Education					
TOTAL GRF	General Revenue Fund	\$	7,482,148,102	\$	7,571,409,899	69899
	General Services Fund Group					69900
138 200-606	Computer	\$	7,600,091	\$	7,600,091	69901
	Services-Operational					
	Support					
4D1 200-602	Ohio	\$	832,000	\$	832,000	69902
	Prevention/Education					
	Resource Center					
4L2 200-681	Teacher Certification	\$	5,497,158	\$	5,628,332	69903
	and Licensure					
452 200-638	Miscellaneous	\$	400,000	\$	400,000	69904
	Educational Services					
5H3 200-687	School District	\$	18,000,000	\$	18,000,000	69905
	Solvency Assistance					
596 200-656	Ohio Career	\$	529,761	\$	529,761	69906
	Information System					
TOTAL GSF	General Services					69907
	Fund Group	\$	32,859,010	\$	32,990,184	69908
	Federal Special Revenue Fund Group					69909
3AF 200-603	Schools Medicaid	\$	1,000,000	\$	1,000,000	69910
	Administrative Claims					

3C5	200-661	Early Childhood Education	\$	23,874,338	\$	23,874,338	69911
3D1	200-664	Drug Free Schools	\$	13,347,966	\$	13,347,966	69912
3D2	200-667	Honors Scholarship Program	\$	5,812,903	\$	5,833,965	69913
3H9	200-605	Head Start Collaboration Project	\$	275,000	\$	275,000	69914
3L6	200-617	Federal School Lunch	\$	204,256,132	\$	211,583,653	69915
3L7	200-618	Federal School Breakfast	\$	46,382,851	\$	48,405,608	69916
3L8	200-619	Child/Adult Food Programs	\$	66,590,622	\$	67,915,843	69917
3L9	200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701	69918
3M0	200-623	ESEA Title 1A	\$	440,260,178	\$	461,026,070	69919
3M1	200-678	Innovative Education	\$	11,800,000	\$	11,800,000	69920
3M2	200-680	Individuals with Disabilities Education Act	\$	513,058,569	\$	605,581,547	69921
3S2	200-641	Education Technology	\$	20,800,000	\$	20,800,000	69922
3T4	200-613	Public Charter Schools	\$	22,000,000	\$	22,000,000	69923
3U2	200-662	Teacher Quality Enhancement Grants	\$	795,280	\$	795,280	69924
3Y2	200-688	21st Century Community Learning Centers	\$	30,681,554	\$	30,681,554	69925
3Y4	200-632	Reading First	\$	31,215,798	\$	31,215,798	69926
3Y6	200-635	Improving Teacher Quality	\$	107,000,000	\$	107,000,000	69927
3Y7	200-689	English Language Acquisition	\$	8,500,000	\$	9,000,000	69928
3Y8	200-639	Rural and Low Income	\$	1,700,000	\$	1,700,000	69929
3Z2	200-690	State Assessments	\$	12,681,031	\$	12,883,799	69930
3Z3	200-645	Consolidated USDE	\$	9,200,000	\$	9,200,000	69931

		Administration					
309	200-601	Educationally	\$	19,658,846	\$	19,658,846	69932
		Disadvantaged					
366	200-604	Adult Basic Education	\$	18,500,000	\$	18,500,000	69933
367	200-607	School Food Services	\$	11,383,637	\$	11,666,732	69934
368	200-614	Veterans' Training	\$	672,961	\$	691,130	69935
369	200-616	Career-Technical	\$	6,500,000	\$	6,500,000	69936
		Education Federal					
		Enhancement					
370	200-624	Education of	\$	2,386,610	\$	2,386,610	69937
		Exceptional Children					
371	200-631	Immigrant Education	\$	400,000	\$	400,000	69938
		Opportunities					
374	200-647	Troops to Teachers	\$	400,000	\$	400,000	69939
378	200-660	Math/Science	\$	1,200,000	\$	1,200,000	69940
		Technology Investments					
		TOTAL FED Federal Special					69941
		Revenue Fund Group	\$	1,680,363,977	\$	1,805,353,440	69942
		State Special Revenue Fund Group					69943
4R7	200-695	Indirect Operational	\$	5,382,864	\$	5,449,748	69944
		Support					
4V7	200-633	Interagency	\$	500,000	\$	500,000	69945
		Operational Support					
454	200-610	Guidance and Testing	\$	400,000	\$	400,000	69946
455	200-608	Commodity Foods	\$	24,000,000	\$	24,000,000	69947
5BB	200-696	State Action for	\$	1,200,000	\$	1,200,000	69948
		Education Leadership					
5BJ	200-626	Half-Mill Maintenance	\$	0	\$	10,700,000	69949
		Equalization					
5U2	200-685	National Education	\$	300,000	\$	300,000	69950
		Statistics					
5W2	200-663	Early Learning	\$	96,580,000	\$	115,456,000	69951
		Initiative					

598	200-659	Auxiliary Services	\$	1,328,910	\$	1,328,910	69952
		Reimbursement					
620	200-615	Educational	\$	1,000,000	\$	1,000,000	69953
		Improvement Grants					
TOTAL SSR State Special Revenue							69954
Fund Group			\$	130,691,774	\$	160,334,658	69955
Lottery Profits Education Fund Group							69956
017	200-612	Foundation Funding	\$	606,208,300	\$	606,296,800	69957
017	200-682	Lease Rental Payment	\$	31,691,700	\$	31,603,200	69958
		Reimbursement					
TOTAL LPE Lottery Profits							69959
Education Fund Group			\$	637,900,000	\$	637,900,000	69960
Revenue Distribution Fund Group							69961
047	200-900	School District	\$	38,810,000	\$	291,010,000	69962
		Property Tax					
		Replacement-Business					
053	200-900	School District	\$	116,647,522	\$	101,647,522	69963
		Property Tax					
		Replacement-Utility					
TOTAL RDF Revenue Distribution							69964
Fund Group			\$	155,457,522	\$	392,657,522	69965
TOTAL ALL BUDGET FUND GROUPS			\$	10,119,420,385	\$	10,600,645,703	69966

Section 206.09.03. PERSONAL SERVICES 69968

Of the foregoing appropriation item 200-100, Personal 69969
 Services, \$1,581,181 in each fiscal year shall be used by the 69970
 Department of Education to provide vocational administration 69971
 matching funds under 20 U.S.C. 2311. 69972

Of the foregoing appropriation item 200-100, Personal 69973
 Services, up to \$1,000,000 in fiscal year 2007 may be used by the 69974
 Department of Education to administer the Educational Choice 69975
 Scholarship Program established under section 3310.02 of the 69976

Revised Code.	69977
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.	69978 69979 69980 69981
MAINTENANCE AND EQUIPMENT	69982
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.	69983 69984 69985
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.	69986 69987 69988 69989
Section 206.09.06. EARLY CHILDHOOD EDUCATION	69990
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.	69991 69992 69993 69994 69995 69996 69997 69998
(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.	69999 70000 70001 70002 70003 70004
(B) The Department shall provide an annual report to the Governor, the Speaker of the House of Representatives, and the	70005 70006

President of the Senate and post the report to the Department's 70007
web site, regarding early childhood education programs operated 70008
under this section and the early learning program guidelines for 70009
school readiness. 70010

(C) For purposes of this section, "eligible child" means a 70011
child who is at least three years of age, is not of the age to be 70012
eligible for kindergarten, and whose family earns not more than 70013
200 per cent of the federal poverty guidelines. 70014

(D) After setting aside the amounts to make payments due from 70015
the previous fiscal year, in fiscal year 2006, the Department 70016
shall distribute funds first to recipients of funds for public 70017
preschool programs under Section 41.02 of Am. Sub. H.B. 95 of the 70018
125th General Assembly in the previous fiscal year and the balance 70019
to new providers of early childhood education programs under this 70020
section. After setting aside the amounts to make payments due from 70021
the previous fiscal year, in fiscal year 2007, the Department 70022
shall distribute funds first to providers of early childhood 70023
education programs under this section in the previous fiscal year 70024
and the balance to new providers. Awards under this section shall 70025
be distributed on a per-pupil basis, which the Department may 70026
adjust so that the per-pupil amount multiplied by the number of 70027
eligible children enrolled and receiving services, as defined by 70028
the Department, reported on the first day of December or the first 70029
business day following that date equals the amount allocated under 70030
division (A) of this section. The Department may increase the 70031
per-pupil amount by a reasonable percentage for inflation, to be 70032
determined by the Department. 70033

The Department may reallocate unobligated or unspent money to 70034
participating providers for purposes of program expansion, 70035
improvement, or special projects to promote quality and 70036
innovation. 70037

(E) Costs for developing and administering an early childhood education program may not exceed fifteen per cent of the total approved costs of the program. 70038
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All providers shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained therefrom, shall be under the authority of the approved provider for purposes provided in the program unless, as described in division (I) of this section, the program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or early learning program guidelines for school readiness. The approved provider shall administer and use such property and funds for the purposes specified. 70041
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(F) The Department may examine a provider's financial and program records. If the financial practices of the program are not in accordance with standard accounting principles or do not meet financial standards outlined under division (E) of this section, or if the program fails to substantially meet the early learning program guidelines for school readiness or exhibits below average performance as measured against the guidelines, the early childhood education program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the chief executive officer and the executive of the official governing body of the provider. The corrective action plan shall include a schedule for monitoring by the Department. Such monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the Department or obtained by the early childhood education program. The Department may withhold funding pending corrective action. If an early childhood education program fails to satisfactorily 70052
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complete a corrective action plan, the Department may deny 70070
expansion funding to the program or withdraw all or part of the 70071
funding to the program and establish a new provider through a 70072
competitive bidding process established by the Department. 70073

(G) Each early childhood education program shall do all of 70074
the following: 70075

(1) Meet teacher qualification requirements prescribed by 70076
section 3301.311 of the Revised Code; 70077

(2) Align curriculum to the early learning program guidelines 70078
for school readiness; 70079

(3) Meet any assessment requirements prescribed by section 70080
3301.0715 of the Revised Code that are applicable to the program; 70081

(4) Require teachers, including teachers enrolled and working 70082
to obtain a degree pursuant to section 3301.311 of the Revised 70083
Code, to attend a minimum of twenty hours per year of professional 70084
development as prescribed by the Department regarding the 70085
implementation of content standards and assessments; 70086

(5) Document and report child progress in meeting the early 70087
learning program guidelines for school readiness. 70088

(H) Each provider shall develop a sliding fee scale based on 70089
family incomes and shall charge families who earn more than the 70090
federal poverty guidelines for the early childhood education 70091
program. 70092

(I) If an early childhood education program voluntarily 70093
waives its right for funding, or has its funding eliminated for 70094
not meeting financial standards or the early learning program 70095
guidelines for school readiness, the provider shall transfer 70096
control of title to property, equipment, and remaining supplies 70097
obtained through the program to providers designated by the 70098
Department and return any unexpended funds to the Department along 70099

with any reports prescribed by the Department. The funding made 70100
available from a program that waives its right for funding or has 70101
its funding eliminated or reduced may be used by the Department 70102
for new grant awards or expansion grants. The Department may award 70103
new grants or expansion grants to eligible providers who apply. 70104
The eligible providers who apply must do so in accordance with the 70105
competitive bidding process established by the Department. 70106

(J) As used in this section, "early learning program 70107
guidelines for school readiness" means the guidelines established 70108
by the Department pursuant to division (C)(3) of Section 206.09.54 70109
of this act. 70110

Section 206.09.09. EDUCATOR TRAINING 70111

The foregoing appropriation item 200-410, Educator Training, 70112
shall be used to fund professional development programs in Ohio. 70113
The Department of Education shall, when possible, incorporate 70114
cultural competency as a component of professional development and 70115
actively promote the development of cultural competency in the 70116
operation of its professional development programs. As used in 70117
this section, "cultural competency" has the meaning specified by 70118
the Educator Standards Board under section 3319.61 of the Revised 70119
Code. 70120

Of the foregoing appropriation item 200-410, Educator 70121
Training, up to \$7,850,000 in fiscal year 2006 and up to 70122
\$8,250,000 in fiscal year 2007 shall be used by the Department of 70123
Education to provide grants to pay \$2,000 of the application fee 70124
in order to assist teachers from public and chartered nonpublic 70125
schools applying for the first time to the National Board for 70126
Professional Teaching Standards for professional teaching 70127
certificates or licenses that the board offers. This set aside 70128
shall also be used to recognize and reward teachers who become 70129
certified by the National Board for Professional Teaching 70130

Standards under section 3319.55 of the Revised Code. Up to 70131
\$300,000 in each fiscal year of this set aside may be used by the 70132
Department to pay for costs associated with activities to support 70133
candidates through the application and certification process. 70134

These moneys shall be used to pay up to the first 400 70135
applications in each fiscal year received by the Department. 70136

Of the foregoing appropriation item 200-410, Educator 70137
Training, up to \$9,515,817 in each fiscal year shall be allocated 70138
for entry year programs. These funds shall be used to support 70139
mentoring services and performance assessments of beginning 70140
teachers in school districts and chartered nonpublic schools. 70141

Of the foregoing appropriation item 200-410, Educator 70142
Training, up to \$200,000 in each fiscal year shall be used to 70143
provide technical assistance and grants for districts to develop 70144
local knowledge/skills-based compensation systems (Teacher 70145
Advancement Program). Each district receiving grants shall issue 70146
an annual report to the Department of Education detailing the use 70147
of the funds and the impact of the system developed by the 70148
district. 70149

Of the foregoing appropriation item 200-410, Educator 70150
Training, up to \$350,000 in each fiscal year shall be used for 70151
training and professional development of school administrators, 70152
school treasurers, and school business officials. 70153

Of the foregoing appropriation item 200-410, Educator 70154
Training, up to \$100,000 in fiscal year 2007 shall be used by the 70155
Department of Education to develop a supply and demand report that 70156
describes the availability of quality educators and critical 70157
educator shortage areas in Ohio. 70158

Of the foregoing appropriation item 200-410, Educator 70159
Training, up to \$885,740 in each fiscal year shall be used for 70160
educator recruitment programs targeting shortage areas, including 70161

recruiting highly qualified minority candidates into teaching and 70162
recruiting prospective mathematics and science teachers. The funds 70163
also may be used to provide an alternative route to licensure for 70164
principals and other administrators. 70165

Of the foregoing appropriation item 200-410, Educator 70166
Training, up to \$187,500 in each fiscal year shall be used by the 70167
Department of Education to identify hard-to-staff schools and to 70168
provide incentives for highly qualified teachers to teach in these 70169
schools. Stipends shall be provided to teachers with at least 70170
three years of experience who teach in the areas of special 70171
education or middle or high school mathematics or science. 70172

Of the foregoing appropriation item 200-410, Educator 70173
Training, up to \$63,000 in each fiscal year shall be used to 70174
support the Ohio University Leadership Program. 70175

Of the foregoing appropriation item 200-410, Educator 70176
Training, up to \$4,371,000 in each fiscal year shall be allocated 70177
by the Department of Education on a per pupil basis, to school 70178
districts in academic emergency or with a three-year average 70179
graduation rate of not more than seventy-five per cent. As used in 70180
this section, "three-year average" and "graduation rate" have the 70181
meanings specified in section 3302.01 of the Revised Code. These 70182
funds shall be used by the districts to provide an equivalent of 70183
five days of ongoing embedded professional development for 70184
classroom teachers who provide instruction in the subject areas of 70185
reading, writing, mathematics, science, or social studies to 70186
students enrolled in the ninth or tenth grade. This professional 70187
development shall focus on developing subject competency, 70188
developing cultural competency, developing skills for analyzing 70189
test data, and developing data-based intervention strategies to 70190
prepare students below grade level to pass the Ohio Graduation 70191
Test. Districts shall submit a research-based, professional 70192
development plan for five days of embedded professional 70193

development to the Department of Education prior to receiving 70194
funds. The plan shall detail how ninth and tenth grade teachers 70195
will learn and implement classroom strategies for students to 70196
reach state standards in mathematics, reading, writing, social 70197
studies, and science. 70198

Section 206.09.12. COMPUTER/APPLICATION/NETWORK DEVELOPMENT 70199

The foregoing appropriation item 200-420, 70200
Computer/Application/Network Development, shall be used to support 70201
the development and implementation of information technology 70202
solutions designed to improve the performance and services of the 70203
Department of Education. Funds may be used for personnel, 70204
maintenance, and equipment costs related to the development and 70205
implementation of these technical system projects. Implementation 70206
of these systems shall allow the Department to provide greater 70207
levels of assistance to school districts and to provide more 70208
timely information to the public, including school districts, 70209
administrators, and legislators. 70210

ALTERNATIVE EDUCATION PROGRAMS 70211

There is hereby created the Alternative Education Advisory 70212
Council, which shall consist of one representative from each of 70213
the following agencies: the Ohio Department of Education; the 70214
Department of Youth Services; the Ohio Department of Alcohol and 70215
Drug Addiction Services; the Department of Mental Health; the 70216
Office of the Governor or, at the Governor's discretion, the 70217
Office of the Lieutenant Governor; the Office of the Attorney 70218
General; and the Office of the Auditor of State. 70219

Of the foregoing appropriation item 200-421, Alternative 70220
Education Programs, up to \$6,227,310 in each fiscal year shall be 70221
used for the renewal of successful implementation grants and for 70222
competitive matching grants to the 21 urban school districts as 70223

defined in division (O) of section 3317.02 of the Revised Code as 70224
it existed prior to July 1, 1998, and up to \$6,408,074 in each 70225
fiscal year shall be used for the renewal of successful 70226
implementation grants and for competitive matching grants to rural 70227
and suburban school districts for alternative educational programs 70228
for existing and new at-risk and delinquent youth. Programs shall 70229
be focused on youth in one or more of the following categories: 70230
those who have been expelled or suspended, those who have dropped 70231
out of school or who are at risk of dropping out of school, those 70232
who are habitually truant or disruptive, or those on probation or 70233
on parole from a Department of Youth Services facility. Grants 70234
shall be awarded according to the criteria established by the 70235
Alternative Education Advisory Council in 1999. Grants shall be 70236
awarded only to programs in which the grant will not serve as the 70237
program's primary source of funding. These grants shall be 70238
administered by the Department of Education. 70239

The Department of Education may waive compliance with any 70240
minimum education standard established under section 3301.07 of 70241
the Revised Code for any alternative school that receives a grant 70242
under this section on the grounds that the waiver will enable the 70243
program to more effectively educate students enrolled in the 70244
alternative school. 70245

Of the foregoing appropriation item 200-421, Alternative 70246
Education Programs, up to \$422,281 in each fiscal year may be used 70247
for program administration, monitoring, technical assistance, 70248
support, research, and evaluation. Any unexpended balance may be 70249
used to provide additional matching grants to urban, suburban, or 70250
rural school districts as outlined above. 70251

Of the foregoing appropriation item 200-421, Alternative 70252
Education Programs, \$75,000 in each fiscal year shall be used to 70253
support the Toledo Tech Academy. 70254

Of the foregoing appropriation item 200-421, Alternative 70255
Education Programs, \$100,000 in each fiscal year shall be used for 70256
the Youth Opportunities United, Inc. 70257

SCHOOL MANAGEMENT ASSISTANCE 70258

Of the foregoing appropriation item 200-422, School 70259
Management Assistance, up to \$1,315,000 in each fiscal year shall 70260
be used by the Auditor of State in consultation with the 70261
Department of Education for expenses incurred in the Auditor of 70262
State's role relating to fiscal caution, fiscal watch, and fiscal 70263
emergency activities as defined in Chapter 3316. of the Revised 70264
Code and may also be used to conduct performance audits consistent 70265
with the recommendations of the Governor's Blue Ribbon Task Force 70266
on Financing Student Success, with priority given to districts in 70267
fiscal distress. Expenses include duties related to the completion 70268
of performance audits for school districts that the Superintendent 70269
of Public Instruction determines are employing fiscal practices or 70270
experiencing budgetary conditions that could produce a state of 70271
fiscal watch or fiscal emergency. 70272

The remainder of foregoing appropriation item 200-422, School 70273
Management Assistance, shall be used by the Department of 70274
Education to provide fiscal technical assistance and inservice 70275
education for school district management personnel and to 70276
administer, monitor, and implement the fiscal watch and fiscal 70277
emergency provisions under Chapter 3316. of the Revised Code. 70278

POLICY ANALYSIS 70279

The foregoing appropriation item 200-424, Policy Analysis, 70280
shall be used by the Department of Education to support a system 70281
of administrative, statistical, and legislative education 70282
information to be used for policy analysis. Staff supported by 70283
this appropriation shall administer the development of reports, 70284
analyses, and briefings to inform education policymakers of 70285

current trends in education practice, efficient and effective use 70286
of resources, and evaluation of programs to improve education 70287
results. The database shall be kept current at all times. These 70288
research efforts shall be used to supply information and analysis 70289
of data to the General Assembly and other state policymakers, 70290
including the Office of Budget and Management and the Legislative 70291
Service Commission. 70292

The Department of Education may use funding from this 70293
appropriation item to purchase or contract for the development of 70294
software systems or contract for policy studies that will assist 70295
in the provision and analysis of policy-related information. 70296
Funding from this appropriation item also may be used to monitor 70297
and enhance quality assurance for research-based policy analysis 70298
and program evaluation to enhance the effective use of education 70299
information to inform education policymakers. 70300

TECH PREP CONSORTIA SUPPORT 70301

The foregoing appropriation item 200-425, Tech Prep Consortia 70302
Support, shall be used by the Department of Education to support 70303
state-level activities designed to support, promote, and expand 70304
tech prep programs. Use of these funds shall include, but not be 70305
limited to, administration of grants, program evaluation, 70306
professional development, curriculum development, assessment 70307
development, program promotion, communications, and statewide 70308
coordination of tech prep consortia. 70309

OHIO EDUCATIONAL COMPUTER NETWORK 70310

The foregoing appropriation item 200-426, Ohio Educational 70311
Computer Network, shall be used by the Department of Education to 70312
maintain a system of information technology throughout Ohio and to 70313
provide technical assistance for such a system in support of the 70314
State Education Technology Plan under section 3301.07 of the 70315
Revised Code. 70316

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 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. 70349

The remainder of appropriation item 200-426, Ohio Educational 70350
Computer Network, shall be used to support development, 70351
maintenance, and operation of a network of uniform and compatible 70352
computer-based information and instructional systems. This 70353
technical assistance shall include, but not be restricted to, 70354
development and maintenance of adequate computer software systems 70355
to support network activities. In order to improve the efficiency 70356
of network activities, the Department and data acquisition sites 70357
may jointly purchase equipment, materials, and services from funds 70358
provided under this appropriation for use by the network and, when 70359
considered practical by the Department, may utilize the services 70360
of appropriate state purchasing agencies. 70361

ACADEMIC STANDARDS 70362

Of the foregoing appropriation item 200-427, Academic 70363
Standards, up to \$747,912 in each fiscal year shall be used to 70364
provide funds to school districts that have one or more teachers 70365
participating in the teachers-on-loan program. 70366

Of the foregoing appropriation item 200-427, Academic 70367
Standards, \$150,000 in each fiscal year shall be used by the 70368
Department in combination with funding earmarked for this purpose 70369
in the Board of Regents' budget under appropriation item 235-321, 70370
Operating Expenses. Such funding shall be used to support Ohio's 70371
Partnership for Continued Learning at the direction of the Office 70372
of the Governor. Ohio's Partnership for Continued Learning 70373
replaces and broadens the former Joint Council of the Department 70374
of Education and the Board of Regents. The Partnership shall 70375
advise and make recommendations to promote collaboration among 70376
relevant state entities in an effort to help local communities 70377
develop coherent and successful "P-16" learning systems. The 70378
Governor, or the Governor's designee, shall serve as the 70379

chairperson. 70380

Of the foregoing appropriation item 200-427, Academic 70381
Standards, \$500,000 in each fiscal year shall be used for Project 70382
Lead the Way leadership and management oversight and initial and 70383
continuing support of Project Lead the Way workforce development 70384
programs in participating school districts. Project Lead the Way 70385
is a program that supports students interested in pursuing 70386
engineering professions and stimulates growth of career pathways 70387
that meet business and industry workforce needs. 70388

Of the foregoing appropriation item 200-427, Academic 70389
Standards, up to \$2,600,000 in each fiscal year shall be used for 70390
intensive teacher professional development institutes that focus 70391
on classroom implementation of the mathematics standards. 70392

Of the foregoing appropriation item 200-427, Academic 70393
Standards, up to \$200,000 in each fiscal year may be used to 70394
support the Ohio Resource Center for Math and Science. 70395

The remainder of appropriation item 200-427, Academic 70396
Standards, shall be used by the Department of Education to develop 70397
and communicate to school districts academic content standards and 70398
curriculum models. 70399

Section 206.09.15. SCHOOL IMPROVEMENT INITIATIVES 70400

Of the foregoing appropriation item 200-431, School 70401
Improvement Initiatives, up to \$14,972,949 in fiscal year 2006 and 70402
\$15,122,678 in fiscal year 2007 shall be used to provide technical 70403
assistance to school districts that are declared to be in a state 70404
of academic watch or academic emergency under section 3302.03 of 70405
the Revised Code, to provide support to districts in the 70406
development and implementation of their continuous improvement 70407
plans as required in section 3302.04 of the Revised Code, to 70408
support a statewide comprehensive system of field relations that 70409

support local educators' abilities to foster academic achievement 70410
in the students they serve, and to provide technical assistance 70411
and support in accordance with Title I of the "No Child Left 70412
Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317. The field 70413
relations system shall include training that assists educators, 70414
school leadership, and technical assistance providers in 70415
understanding and implementing standards-based education, data 70416
analysis, and development of assessment systems for quality 70417
instruction. 70418

Of the foregoing appropriation item 200-431, School 70419
Improvement Initiatives, up to \$315,000 in each fiscal year shall 70420
be used to reduce the dropout rate by addressing the academic and 70421
social problems of inner-city students through Project GRAD. 70422

Of the foregoing appropriation item 200-431, School 70423
Improvement Initiatives, \$1,574,535 in fiscal year 2006 and 70424
\$2,753,985 in fiscal year 2007 shall be used in conjunction with 70425
funding provided in the Board of Regents' budget under 70426
appropriation item 235-434, College Readiness and Access, to 70427
create early college high schools, which are small, autonomous 70428
schools that blend high school and college into a coherent 70429
educational program. 70430

Of the foregoing appropriation item 200-431, School 70431
Improvement Initiatives, up to \$3,000,000 in fiscal year 2006 and 70432
up to \$5,000,000 in fiscal year 2007 shall be used in partnership 70433
with nonprofit groups with expertise in converting existing large 70434
urban high schools into small, personalized high schools. 70435
Districts eligible for such funding include the Urban 21 high 70436
schools, as defined in division (0) of section 3317.02 of the 70437
Revised Code as it existed prior to July 1, 1998, with priority 70438
given to those without other sources of funding for this 70439
initiative. 70440

READING/WRITING IMPROVEMENT-PROFESSIONAL DEVELOPMENT 70441

Of the foregoing appropriation item 200-433, Reading/Writing 70442
Improvement-Professional Development, up to \$9,175,000 in each 70443
fiscal year shall be used for educator training in literacy for 70444
classroom teachers, administrators, and literacy specialists. 70445

Of the foregoing appropriation item 200-433, Reading/Writing 70446
Improvement-Professional Development, up to \$5,000,000 in each 70447
fiscal year shall be used to support literacy professional 70448
development partnerships between the Department of Education, 70449
higher education institutions, literacy networks, and school 70450
districts. 70451

Of the foregoing appropriation item 200-433, Reading/Writing 70452
Improvement-Professional Development, up to \$900,000 in each 70453
fiscal year shall be used by the Department of Education to fund 70454
the Reading Recovery Training Network, to cover the cost of 70455
release time for the teacher trainers, and to provide grants to 70456
districts to implement other reading improvement programs on a 70457
pilot basis. Funds from this set-aside also may be used to conduct 70458
evaluations of the impact and effectiveness of Reading Recovery 70459
and other reading improvement programs. 70460

Of the foregoing appropriation item 200-433, Reading/Writing 70461
Improvement-Professional Development, up to \$250,000 in each 70462
fiscal year shall be used for the Waterford Early Reading Program. 70463

The remainder of appropriation item 200-433, Reading/Writing 70464
Improvement-Professional Development, shall be used by the 70465
Department of Education to provide administrative support of 70466
literacy professional development programs. 70467

STUDENT ASSESSMENT 70468

The foregoing appropriation item 200-437, Student Assessment, 70469
shall be used to develop, field test, print, distribute, score, 70470

report results, and support other associated costs for the tests 70471
required under sections 3301.0710 and 3301.0711 of the Revised 70472
Code and for similar purposes as required by section 3301.27 of 70473
the Revised Code. 70474

ACCOUNTABILITY/REPORT CARDS 70475

Of the foregoing appropriation item 200-439, 70476
Accountability/Report Cards, up to \$200,100 in fiscal year 2006 70477
and up to \$2,778,540 in fiscal year 2007 shall be used by the 70478
Department of Education to incorporate a statewide pilot 70479
value-added progress dimension into performance ratings for school 70480
districts and to train regional specialists. This funding shall be 70481
used in consultation with a credible nonprofit organization with 70482
expertise in value-added progress dimensions. 70483

The remainder of the appropriation item 200-439, 70484
Accountability/Report Cards, shall be used for the development of 70485
an accountability system that includes the preparation and 70486
distribution of school report cards under section 3302.03 of the 70487
Revised Code. 70488

CHILD CARE LICENSING 70489

The foregoing appropriation item 200-442, Child Care 70490
Licensing, shall be used by the Department of Education to license 70491
and to inspect preschool and school-age child care programs under 70492
sections 3301.52 to 3301.59 of the Revised Code. 70493

OHIOREADS VOLUNTEER SUPPORT 70494

The foregoing appropriation item 200-445, OhioReads Volunteer 70495
Support, may be allocated by the Department of Education for 70496
volunteer coordinators in public school buildings, for background 70497
checks for volunteers, to evaluate programs, and to develop, 70498
implement, and support literacy improvement activities and 70499
interventions for students in grades kindergarten through twelve. 70500

Section 206.09.18. EDUCATION MANAGEMENT INFORMATION SYSTEM 70501

The foregoing appropriation item 200-446, Education 70502
Management Information System, shall be used by the Department of 70503
Education to improve the Education Management Information System 70504
(EMIS). 70505

Of the foregoing appropriation item 200-446, Education 70506
Management Information System, up to \$1,295,857 in each fiscal 70507
year shall be distributed to designated data acquisition sites for 70508
costs relating to processing, storing, and transferring data for 70509
the effective operation of the EMIS. These costs may include, but 70510
are not limited to, personnel, hardware, software development, 70511
communications connectivity, professional development, and support 70512
services, and to provide services to participate in the State 70513
Education Technology Plan pursuant to section 3301.07 of the 70514
Revised Code. 70515

Of the foregoing appropriation item 200-446, Education 70516
Management Information System, up to \$8,055,189 in each fiscal 70517
year shall be distributed on a per-pupil basis to school 70518
districts, community schools established under Chapter 3314. of 70519
the Revised Code, educational service centers, joint vocational 70520
school districts, and any other education entity that reports data 70521
through EMIS. From this funding, each school district or community 70522
school established under Chapter 3314. of the Revised Code with 70523
enrollment greater than 100 students and each vocational school 70524
district shall receive a minimum of \$5,000 in each fiscal year. 70525
Each school district or community school established under Chapter 70526
3314. of the Revised Code with enrollment between one and one 70527
hundred and each educational service center and each county board 70528
of MR/DD that submits data through EMIS shall receive \$3,000 in 70529
each fiscal year. This subsidy shall be used for costs relating to 70530
reporting, processing, storing, transferring, and exchanging data 70531

necessary to meet requirements of the Department of Education's 70532
data system. 70533

The remainder of appropriation item 200-446, Education 70534
Management Information System, shall be used to develop and 70535
support a common core of data definitions and standards as adopted 70536
by the Education Data Advisory Council, including the ongoing 70537
development and maintenance of the data dictionary and data 70538
warehouse. In addition, such funds shall be used to support the 70539
development and implementation of data standards and the design, 70540
development, and implementation of a new data exchange system. 70541

Any provider of software meeting the standards approved by 70542
the Education Data Advisory Council shall be designated as an 70543
approved vendor and may enter into contracts with local school 70544
districts, community schools, data acquisition centers, or other 70545
educational entities for the purpose of collecting and managing 70546
data required under Ohio's education management information system 70547
(EMIS) laws. On an annual basis, the Department of Education shall 70548
convene an advisory group of school districts, community schools, 70549
and other education-related entities to review the Education 70550
Management Information System data definitions and data format 70551
standards. The advisory group shall recommend changes and 70552
enhancements based upon surveys of its members, education agencies 70553
in other states, and current industry practices, to reflect best 70554
practices, align with federal initiatives, and meet the needs of 70555
school districts. 70556

School districts and community schools not implementing a 70557
common and uniform set of data definitions and data format 70558
standards for Education Management Information System purposes 70559
shall have all EMIS funding withheld until they are in compliance. 70560

GED TESTING 70561

The foregoing appropriation item 200-447, GED Testing, shall 70562

be used to provide General Educational Development (GED) testing 70563
at no cost to applicants, under rules adopted by the State Board 70564
of Education. The Department of Education shall reimburse school 70565
districts and community schools, created under Chapter 3314. of 70566
the Revised Code, for a portion of the costs incurred in providing 70567
summer instructional or intervention services to students who have 70568
not graduated because of their inability to pass one or more parts 70569
of the state's Ohio Graduation Test or ninth grade proficiency 70570
test. School districts shall also provide such services to 70571
students who are residents of the district under section 3313.64 70572
of the Revised Code, but who are enrolled in chartered, nonpublic 70573
schools. The services shall be provided in the public school, in 70574
nonpublic schools, in public centers, or in mobile units located 70575
on or off the nonpublic school premises. No school district shall 70576
provide summer instructional or intervention services to nonpublic 70577
school students as authorized by this section unless such services 70578
are available to students attending the public schools within the 70579
district. No school district shall provide services for use in 70580
religious courses, devotional exercises, religious training, or 70581
any other religious activity. Chartered, nonpublic schools shall 70582
pay for any unreimbursed costs incurred by school districts for 70583
providing summer instruction or intervention services to students 70584
enrolled in chartered, nonpublic schools. School districts may 70585
provide these services to students directly or contract with 70586
postsecondary or nonprofit community-based institutions in 70587
providing instruction. 70588

EDUCATOR PREPARATION 70589

Of the foregoing appropriation item 200-448, Educator 70590
Preparation, \$100,000 in each fiscal year shall be provided in 70591
conjunction with funding in the Board of Regents' budget under 70592
appropriation item 235-435, Teacher Improvement Initiatives, to 70593
the Teacher Quality Partnership project. The Teacher Quality 70594

Partnership is a research consortium of Ohio's fifty colleges and
universities providing teacher preparation programs. Funds shall
be used to support a comprehensive longitudinal study of the
preparation, in-school support, and effectiveness of Ohio
teachers.

Of the foregoing appropriation item 200-448, Educator
Preparation, up to \$1,551,000 in each fiscal year shall be used by
the Department to support the Educator Standards Board under
section 3319.61 of the Revised Code as it develops and recommends
to the State Board of Education standards for educator training
and standards for teacher and other school leadership positions.

TITLE IV-A HEAD START AND TITLE IV-A HEAD START PLUS START UP

Funds appropriated for the purpose of providing start up
grants to Title IV-A Head Start and Title IV-A Head Start Plus
agencies in fiscal year 2004 and fiscal year 2005 for the
provision of services to children eligible for Title IV-A services
under the Title IV-A Head Start or Title IV-A Head Start Plus
programs shall be reimbursed to the General Revenue Fund when the
Title IV-A Head Start or Title IV-A Head Start Plus programs cease
to exist in fiscal year 2006 or are no longer funded from Title
IV-A.

Within ninety days after the effective date of this section,
the Title IV-A Head Start agencies, the Title IV-A Head Start Plus
agencies, and the Department of Education shall determine the
outstanding amount remaining to be repaid for the start up grants,
and, within ten days thereafter, the Title IV-A Head Start
agencies and the Title IV-A Head Start Plus agencies shall pay
this amount to the Department of Education for reimbursement to
the General Revenue Fund. The Department of Education shall refer
any amounts remaining due and payable to the state after that date
to the Attorney General for collection under section 131.02 of the

Revised Code. 70626

COMMUNITY SCHOOLS 70627

Of the foregoing appropriation item 200-455, Community 70628
Schools, up to \$1,308,661 in each fiscal year may be used by the 70629
Department of Education for additional services and 70630
responsibilities under section 3314.11 of the Revised Code. 70631

Of the foregoing appropriation item 200-455, Community 70632
Schools, up to \$225,000 in each fiscal year may be used by the 70633
Department of Education for developing and conducting training 70634
sessions for sponsors and prospective sponsors of community 70635
schools as prescribed in division (A)(1) of section 3314.015 of 70636
the Revised Code. In developing the training sessions, the 70637
Department shall collect and disseminate examples of best 70638
practices used by sponsors of independent charter schools in Ohio 70639
and other states. 70640

The remaining appropriation may be used by the Department of 70641
Education to make grants of up to \$50,000 to each proposing group 70642
with a preliminary agreement obtained under division (C)(2) of 70643
section 3314.02 of the Revised Code in order to defray planning 70644
and initial start-up costs. In the first year of operation of a 70645
community school, the Department of Education may make a grant of 70646
not more than \$100,000 to the governing authority of the school to 70647
partially defray additional start-up costs. The amount of the 70648
grant shall be based on a thorough examination of the needs of the 70649
community school. The Department of Education shall not utilize 70650
moneys received under this section for any other purpose other 70651
than those specified under this section. 70652

A community school awarded start-up grants from appropriation 70653
item 200-613, Public Charter Schools (Fund 3T4), shall not be 70654
eligible for grants under this section. 70655

Section 206.09.21. PUPIL TRANSPORTATION 70656

Of the foregoing appropriation item 200-502, Pupil 70657
Transportation, up to \$822,400 in each fiscal year may be used by 70658
the Department of Education for training prospective and 70659
experienced school bus drivers in accordance with training 70660
programs prescribed by the Department. Up to \$58,115,428 in fiscal 70661
year 2006 and up to \$59,277,737 in fiscal year 2007 may be used by 70662
the Department of Education for special education transportation 70663
reimbursements to school districts and county MR/DD boards for 70664
transportation operating costs as provided in division (M) of 70665
section 3317.024 of the Revised Code. The remainder of 70666
appropriation item 200-502, Pupil Transportation, shall be used 70667
for the state reimbursement of public school districts' costs in 70668
transporting pupils to and from the school they attend in 70669
accordance with the district's policy, State Board of Education 70670
standards, and the Revised Code. 70671

Notwithstanding the distribution formula outlined in division 70672
(D) of section 3317.022 of the Revised Code, each school district 70673
shall receive an additional two per cent in state funding for 70674
transportation in fiscal year 2006 over what was received in 70675
fiscal year 2005, and the local share of transportation costs that 70676
is used in the calculation of the charge-off supplement and excess 70677
cost supplement for each school district in fiscal year 2006 shall 70678
be increased by two per cent from that used in calculations in 70679
fiscal year 2005. 70680

Notwithstanding the distribution formula outlined in division 70681
(D) of section 3317.022 of the Revised Code, each school district 70682
shall receive an additional two per cent in state funding for 70683
transportation in fiscal year 2007 over what was received in 70684
fiscal year 2006, and the local share of transportation costs that 70685
is used in the calculation of the charge-off supplement and excess 70686

cost supplement for each school district in fiscal year 2007 shall 70687
be increased by two per cent from that used in calculations in 70688
fiscal year 2006. 70689

The Department of Education shall recommend a new formula for 70690
allocating state funds for transportation costs. The Department 70691
shall submit the recommendation to the Director of Budget and 70692
Management, the Speaker of the House of Representatives, and the 70693
President of the Senate not later than July 1, 2006. 70694

School districts not receiving state funding for 70695
transportation in fiscal year 2005 under division (D) of section 70696
3317.022 of the Revised Code shall not receive state funding for 70697
transportation in fiscal year 2006 or fiscal year 2007. 70698

BUS PURCHASE ALLOWANCE 70699

The foregoing appropriation item 200-503, Bus Purchase 70700
Allowance, shall be distributed to school districts, educational 70701
service centers, and county MR/DD boards pursuant to rules adopted 70702
under section 3317.07 of the Revised Code. Up to 28 per cent of 70703
the amount appropriated may be used to reimburse school districts 70704
and educational service centers for the purchase of buses to 70705
transport handicapped and nonpublic school students and to county 70706
MR/DD boards, the Ohio School for the Deaf, and the Ohio School 70707
for the Blind for the purchase of buses to transport handicapped 70708
students. 70709

SCHOOL LUNCH MATCH 70710

The foregoing appropriation item 200-505, School Lunch Match, 70711
shall be used to provide matching funds to obtain federal funds 70712
for the school lunch program. 70713

Section 206.09.24. ADULT LITERACY EDUCATION 70714

The foregoing appropriation item 200-509, Adult Literacy 70715
Education, shall be used to support adult basic and literacy 70716

education instructional programs and the State Literacy Resource Center Program. 70717
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Of the foregoing appropriation item 200-509, Adult Literacy Education, up to \$488,037 in each fiscal year shall be used for the support and operation of the State Literacy Resource Center. 70719
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Of the foregoing appropriation item 200-509, Adult Literacy Education, up to \$175,000 in each fiscal year shall be used for state reimbursement to school districts for adult high school continuing education programs under section 3313.531 of the Revised Code or for costs associated with awarding adult high school diplomas under section 3313.611 of the Revised Code. 70722
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The remainder of the appropriation shall be used to continue to satisfy the state match and maintenance of effort requirements for the support and operation of the Department of Education-administered instructional grant program for adult basic and literacy education in accordance with the Department's state plan for adult basic and literacy education as approved by the State Board of Education and the Secretary of the United States Department of Education. 70728
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AUXILIARY SERVICES 70736

The foregoing appropriation item 200-511, Auxiliary Services, shall be used by the Department of Education for the purpose of implementing section 3317.06 of the Revised Code. Of the appropriation, up to \$2,000,000 in each fiscal year may be used for payment of the Post-Secondary Enrollment Options Program for nonpublic students under section 3365.10 of the Revised Code. 70737
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POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION 70743

The foregoing appropriation item 200-514, Postsecondary Adult Career-Technical Education, shall be used by the State Board of Education to provide postsecondary adult career-technical 70744
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education under sections 3313.52 and 3313.53 of the Revised Code. 70747

Section 206.09.27. GIFTED PUPIL PROGRAM 70748

The foregoing appropriation item 200-521, Gifted Pupil 70749
Program, shall be used for gifted education units not to exceed 70750
1,110 in each fiscal year under division (P) of section 3317.024 70751
and division (F) of section 3317.05 of the Revised Code. 70752

Of the foregoing appropriation item 200-521, Gifted Pupil 70753
Program, up to \$4,700,000 in each fiscal year may be used as an 70754
additional supplement for identifying gifted students under 70755
Chapter 3324. of the Revised Code. 70756

Of the foregoing appropriation item 200-521, Gifted Pupil 70757
Program, the Department of Education may expend up to \$940,000 in 70758
each fiscal year for the Summer Honors Institute for gifted 70759
freshman and sophomore high school students. Up to \$65,800 in each 70760
fiscal year shall be used for the Ohio Summer School for the 70761
Gifted (Martin Essex Program). 70762

NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT 70763

The foregoing appropriation item 200-532, Nonpublic 70764
Administrative Cost Reimbursement, shall be used by the Department 70765
of Education for the purpose of implementing section 3317.063 of 70766
the Revised Code. 70767

Section 206.09.30. SPECIAL EDUCATION ENHANCEMENTS 70768

Of the foregoing appropriation item 200-540, Special 70769
Education Enhancements, up to \$46,357,775 in fiscal year 2006 and 70770
up to \$46,826,353 in fiscal year 2007 shall be used to fund 70771
special education and related services at county boards of mental 70772
retardation and developmental disabilities for eligible students 70773
under section 3317.20 of the Revised Code and at institutions for 70774
eligible students under section 3317.201 of the Revised Code. 70775

Of the foregoing appropriation item 200-540, Special 70776
Education Enhancements, up to \$2,906,875 in each fiscal year shall 70777
be used for home instruction for children with disabilities; up to 70778
\$1,462,500 in each fiscal year shall be used for parent mentoring 70779
programs; and up to \$2,408,396 in each fiscal year may be used for 70780
school psychology interns. 70781

Of the foregoing appropriation item 200-540, Special 70782
Education Enhancements, \$750,000 in each fiscal year shall be used 70783
for the Out of School Initiative of Sinclair Community College. 70784

Of the foregoing appropriation item 200-540, Special 70785
Education Enhancements, \$500,000 in each fiscal year shall be 70786
distributed to Putnam, Northwest Ohio, Erie-Huron-Ottawa, and Wood 70787
County educational service centers for continued implementation in 70788
collaboration with the Ohio Coalition for the Education of 70789
Children with Disabilities of the research-based reading mentoring 70790
programs for students with disabilities in preschool through 70791
fourth grade. The mentoring programs selected shall have promising 70792
educational practices for accelerating student achievement, be 70793
easily replicated, have strong evaluative components, and have 70794
goals aligned to the Ohio achievement and proficiency tests. The 70795
mentoring programs shall be administered by certified staff, and 70796
testing of participants shall be required prior to, during, and 70797
after participation in the programs. Ongoing and comparison data 70798
shall be collected for fiscal years 2006 and 2007 by the Putnam 70799
County Educational Service Center and reported to the Governor, 70800
Superintendent of Public Instruction, and the General Assembly. 70801

Of the foregoing appropriation item 200-540, Special 70802
Education Enhancements, \$315,000 in each fiscal year shall be used 70803
to implement the Collaborative Language and Literacy Instruction 70804
Project literacy reform programming, which provides professional 70805
development in language and literacy that supports student 70806
acquisition of language and literacy skills. The implementation of 70807

the Collaborative Language and Literacy Instruction Project shall 70808
demonstrate the improvement of language and literacy skills of 70809
at-risk learners under the instruction and training of the Ohio 70810
Education Development Center. Baseline data and comparison data 70811
for fiscal year 2006 and fiscal year 2007 shall be collected by 70812
the Ohio Education Development Center and reported to the 70813
Governor, the General Assembly, and the State Board of Education. 70814

Of the foregoing appropriation item 200-540, Special 70815
Education Enhancements, up to \$79,194,060 in fiscal year 2006 and 70816
up to \$79,986,001 in fiscal year 2007 shall be distributed by the 70817
Department of Education to county boards of mental retardation and 70818
developmental disabilities, educational service centers, and 70819
school districts for preschool special education units and 70820
preschool supervisory units under section 3317.052 of the Revised 70821
Code. The Department may reimburse county boards of mental 70822
retardation and developmental disabilities, educational service 70823
centers, and school districts for related services as defined in 70824
rule 3301-51-11 of the Administrative Code, for preschool 70825
occupational and physical therapy services provided by a physical 70826
therapy assistant and certified occupational therapy assistant, 70827
and for an instructional assistant. To the greatest extent 70828
possible, the Department of Education shall allocate these units 70829
to school districts and educational service centers. 70830

The Department of Education shall require school districts, 70831
educational service centers, and county MR/DD boards serving 70832
preschool children with disabilities to document child progress 70833
using research-based indicators prescribed by the Department and 70834
report results annually. The reporting dates and method shall be 70835
determined by the Department. 70836

Section 206.09.33. CAREER-TECHNICAL EDUCATION ENHANCEMENTS 70837

Of the foregoing appropriation item 200-545, Career-Technical 70838

Education Enhancements, up to \$2,436,070 in each fiscal year shall 70839
be used to fund career-technical education units at institutions. 70840

Of the foregoing appropriation item 200-545, Career-Technical 70841
Education Enhancements, up to \$2,621,507 in each fiscal year shall 70842
be used by the Department of Education to fund competitive grants 70843
to tech prep consortia that expand the number of students enrolled 70844
in tech prep programs. These grant funds shall be used to directly 70845
support expanded tech prep programs, including equipment, provided 70846
to students enrolled in school districts, including joint 70847
vocational school districts, and affiliated higher education 70848
institutions. 70849

Of the foregoing appropriation item 200-545, Career-Technical 70850
Education Enhancements, \$943,873 in fiscal year 2006 shall be used 70851
to provide an amount to each eligible school district for the 70852
replacement or updating of equipment essential for the instruction 70853
of students in job skills taught as part of a career-technical 70854
program or programs approved for such instruction by the State 70855
Board of Education. School districts replacing or updating 70856
career-technical education equipment may purchase or lease such 70857
equipment. The Department of Education shall review and approve 70858
all equipment requests and may allot appropriated funds to 70859
eligible school districts on the basis of the number of full-time 70860
equivalent workforce development teachers in all eligible 70861
districts making application for funds. 70862

The State Board of Education may adopt standards of need for 70863
equipment allocation. Pursuant to the adoption of any such 70864
standards of need by the State Board of Education, appropriated 70865
funds may be allotted to eligible districts according to such 70866
standards. Equipment funds allotted under either process shall be 70867
provided to a school district at 30, 40, or 50 per cent of cost on 70868
the basis of a rating developed by the Department of Education 70869
using the state share percentage as provided in division (B)(2) of 70870

section 3317.022 of the Revised Code. 70871

Of the foregoing appropriation item 200-545, Career-Technical 70872
Education Enhancements, up to \$3,431,000 in each fiscal year shall 70873
be used by the Department of Education to support existing High 70874
Schools That Work (HSTW) sites, develop and support new sites, 70875
fund technical assistance, and support regional centers and middle 70876
school programs. The purpose of HSTW is to combine challenging 70877
academic courses and modern career-technical studies to raise the 70878
academic achievement of students. HSTW provides intensive 70879
technical assistance, focused staff development, targeted 70880
assessment services, and ongoing communications and networking 70881
opportunities. 70882

Of the foregoing appropriation item 200-545, Career-Technical 70883
Education Enhancements, up to \$466,992 in each fiscal year shall 70884
be allocated for the Ohio Career Information System (OCIS) and 70885
used for the dissemination of career information data to public 70886
schools, libraries, rehabilitation centers, two- and four-year 70887
colleges and universities, and other governmental units. 70888

Of the foregoing appropriation item 200-545, Career-Technical 70889
Educational Enhancements, up to \$270,000 in each fiscal year shall 70890
be used by the Department of Education to enable students in 70891
agricultural programs to enroll in a fifth quarter of instruction 70892
based on the agricultural education model of delivering work-based 70893
learning through supervised agricultural experience. The 70894
Department of Education shall determine eligibility criteria and 70895
the reporting process for the Agriculture 5th Quarter Project and 70896
shall fund as many programs as possible given the \$270,000 set 70897
aside. 70898

Section 206.09.36. FOUNDATION FUNDING 70899

The foregoing appropriation item 200-550, Foundation Funding, 70900

includes \$85,000,000 in each fiscal year for the state education 70901
aid offset due to the change in public utility valuation as a 70902
result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd 70903
General Assembly. This amount represents the total state education 70904
aid offset due to the valuation change for school districts and 70905
joint vocational school districts from all relevant appropriation 70906
line item sources. Upon certification by the Department of 70907
Education, in consultation with the Department of Taxation, to the 70908
Director of Budget and Management of the actual state aid offset, 70909
the cash transfer from fund 053, appropriation item 200-900, 70910
School District Property Tax Replacement - Utility, shall be 70911
decreased or increased by the Director of Budget and Management to 70912
match the certification in accordance with section 5727.84 of the 70913
Revised Code. 70914

Of the foregoing appropriation item 200-550, Foundation 70915
Funding, up to \$425,000 shall be expended in each fiscal year for 70916
court payments under section 2151.357 of the Revised Code; an 70917
amount shall be available in each fiscal year for the cost of 70918
reappraisal guarantee under section 3317.04 of the Revised Code; 70919
an amount shall be available in each fiscal year to fund up to 225 70920
full-time equivalent approved GRADS teacher grants under division 70921
(R) of section 3317.024 of the Revised Code; an amount shall be 70922
available in each fiscal year to make payments to school districts 70923
under division (A)(2) of section 3317.022 of the Revised Code; an 70924
amount shall be available in each fiscal year to make payments to 70925
school districts under division (F) of section 3317.022 of the 70926
Revised Code; an amount shall be available in each fiscal year to 70927
make payments to school districts under division (C) of section 70928
3317.0212 of the Revised Code; and up to \$30,000,000 in each 70929
fiscal year shall be reserved for payments under sections 70930
3317.026, 3317.027, and 3317.028 of the Revised Code except that 70931
the Controlling Board may increase the \$30,000,000 amount if 70932

presented with such a request from the Department of Education. Of 70933
the foregoing appropriation item 200-550, Foundation Funding, up 70934
to \$18,000,000 in fiscal year 2006 and up to \$19,000,000 in fiscal 70935
year 2007 shall be used to provide additional state aid to school 70936
districts for special education students under division (C)(3) of 70937
section 3317.022 of the Revised Code; up to \$2,000,000 in each 70938
fiscal year shall be reserved for Youth Services tuition payments 70939
under section 3317.024 of the Revised Code; and up to \$52,000,000 70940
in each fiscal year shall be reserved to fund the state 70941
reimbursement of educational service centers under section 3317.11 70942
of the Revised Code and the section of this act entitled 70943
"EDUCATIONAL SERVICE CENTERS FUNDING." An amount shall be 70944
available for special education weighted funding under division 70945
(C)(1) of section 3317.022 and division (D)(1) of section 3317.16 70946
of the Revised Code. 70947

Of the foregoing appropriation item 200-550, Foundation 70948
Funding, an amount shall be available in each fiscal year to be 70949
used by the Department of Education for transitional aid for 70950
school districts and joint vocational school districts. Funds 70951
shall be distributed under the sections of this act entitled 70952
"TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL 70953
DISTRICTS" AND "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL 70954
DISTRICTS." 70955

Of the foregoing appropriation item 200-550, Foundation 70956
Funding, up to \$1,000,000 in each fiscal year shall be used by the 70957
Department of Education for a program to pay for educational 70958
services for youth who have been assigned by a juvenile court or 70959
other authorized agency to any of the facilities described in 70960
division (A) of the section of this act entitled "PRIVATE 70961
TREATMENT FACILITY PROJECT." 70962

Of the foregoing appropriation item 200-550, Foundation 70963
Funding, up to \$3,700,000 in each fiscal year shall be used for 70964

school breakfast programs. Of this amount, up to \$900,000 shall be used in each fiscal year by the Department of Education to contract with the Children's Hunger Alliance to expand access to child nutrition programs consistent with the organization's continued ability to meet specified performance measures as detailed in the contract. The remainder of the appropriation shall be used to partially reimburse school buildings within school districts that are required to have a school breakfast program under section 3313.813 of the Revised Code, at a rate decided by the Department.

Of the foregoing appropriation item 200-550, Foundation Funding, up to \$7,300,000 in fiscal year 2006 and up to \$8,600,000 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.

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.

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.

Appropriation items 200-502, Pupil Transportation, 200-521, 70996
Gifted Pupil Program, 200-540, Special Education Enhancements, and 70997
200-550, Foundation Funding, other than specific set-asides, are 70998
collectively used in each fiscal year to pay state formula aid 70999
obligations for school districts and joint vocational school 71000
districts under Chapter 3317. of the Revised Code. The first 71001
priority of these appropriation items, with the exception of 71002
specific set-asides, is to fund state formula aid obligations 71003
under Chapter 3317. of the Revised Code. It may be necessary to 71004
reallocate funds among these appropriation items or use excess 71005
funds from other general revenue fund appropriation items in the 71006
Department of Education's budget in each fiscal year, in order to 71007
meet state formula aid obligations. If it is determined that it is 71008
necessary to transfer funds among these appropriation items or to 71009
transfer funds from other General Revenue Fund appropriations in 71010
the Department of Education's budget to meet state formula aid 71011
obligations, the Department of Education shall seek approval from 71012
the Controlling Board to transfer funds as needed. 71013

Section 206.09.37. DISTRICT SPENDING REQUIREMENTS 71014

The Department of Education shall review district spending 71015
requirements as specified in section 3317.029 of the Revised Code 71016
and shall submit a report recommending modifications by July 1, 71017
2006. Copies of the report shall be provided to the Director of 71018
Budget and Management, the Speaker of the House of 71019
Representatives, and the President of the Senate. The 71020
recommendations shall include decreasing degrees of flexibility of 71021
spending for districts not meeting adequate progress standards as 71022
defined by the Department of Education. Recommendations shall also 71023
specifically review the definition of class size reduction in 71024
division (F)(3) of section 3317.029 of the Revised Code. The 71025
reports submitted by school districts under the section of this 71026

act entitled "INTERVENTION FUNDING" shall be used to inform these 71027
recommendations. 71028

Section 206.09.38. This section applies to fiscal year 2006 71029
only. 71030

Notwithstanding the distribution formula outlined in section 71031
3317.029 of the Revised Code, as that section exists prior to July 71032
1, 2006, the Department of Education shall pay to each school 71033
district that received a Disadvantaged Pupil Impact Aid (DPIA) 71034
allocation in fiscal year 2005 an additional two per cent in DPIA 71035
funding in fiscal year 2006 over what was received in fiscal year 71036
2005, unless the district received in fiscal year 2003 DPIA 71037
funding from the DPIA guarantee provision pursuant to division (B) 71038
of section 3317.029 of the Revised Code, as that section exists 71039
prior to July 1, 2006. For such a district, its DPIA funding in 71040
fiscal year 2006 shall equal the amount of DPIA funding the 71041
district received in fiscal year 2003. 71042

School districts shall continue to comply with all 71043
expenditure guidelines and restrictions outlined in divisions (F), 71044
(G), (I), and (K) of section 3317.029 of the Revised Code, as that 71045
section exists prior to July 1, 2006, by assuming a two per cent 71046
increase in funds for each program outlined in divisions (C), (D), 71047
and (E) of section 3317.029 of the Revised Code, as that section 71048
exists prior to July 1, 2006, and by assuming a DPIA index 71049
equivalent to the index calculated in fiscal year 2003. 71050

The Department of Education shall pay Disadvantaged Pupil 71051
Impact Aid (DPIA) in fiscal year 2006 in accordance with section 71052
3317.029 of the Revised Code, as that section exists prior to July 71053
1, 2006, to each school district that did not receive any DPIA 71054
allocation in fiscal year 2005 because its DPIA index in that 71055
fiscal year was less than 0.35 and it did not qualify for a DPIA 71056
guarantee payment. However, the Department shall calculate each 71057

such district's DPIA index and DPIA student count in fiscal year 2006 based solely on Ohio Works First data certified for the district by the Department of Job and Family Services. Each district receiving payment under this paragraph shall comply with all expenditure guidelines and restrictions of section 3317.029 of the Revised Code, as that section exists prior to July 1, 2006.

Notwithstanding section 3314.08 of the Revised Code, the Department shall make per pupil DPIA payments to community schools in fiscal year 2006 in the same manner prescribed for fiscal year 2005 by Section 16 of Am. Sub. S.B. 2 of the 125th General Assembly, assuming a two per cent increase from the fiscal year 2005 per pupil amounts. However, the Department shall make no DPIA payment to any internet- or computer-based community school, as defined in section 3314.02 of the Revised Code.

Section 206.09.39. TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL DISTRICTS

(A) The Department of Education shall distribute funds within appropriation item 200-550, Foundation Funding, for transitional aid in each fiscal year to each qualifying city, local, and exempted village school district.

In fiscal years 2006 and 2007, the Department shall pay transitional aid to each city, local, or exempted village school district that experiences any decrease in its SF-3 funding plus charge-off supplement for the current fiscal year from its SF-3 funding plus charge-off supplement for the previous fiscal year. The amount of the transitional aid payment shall equal the difference between the district's SF-3 funding plus charge-off supplement for the current fiscal year and its SF-3 funding plus charge-off supplement for the previous fiscal year.

(B)(1) Subject to divisions (B)(2) and (3) of this section,

the "SF-3 funding plus charge-off supplement" for each city,	71088
local, and exempted village school district in fiscal years 2006	71089
and 2007 equals the sum of the following:	71090
(a) Base-cost funding under division (A) of section 3317.022	71091
of the Revised Code;	71092
(b) Special education and related services additional	71093
weighted funding under division (C)(1) of section 3317.022 of the	71094
Revised Code;	71095
(c) Speech services funding under division (C)(4) of section	71096
3317.022 of the Revised Code;	71097
(d) Vocational education additional weighted funding under	71098
division (E) of section 3317.022 of the Revised Code;	71099
(e) GRADS funding under division (R) of section 3317.024 of	71100
the Revised Code;	71101
(f) Adjustments for classroom teachers and educational	71102
service personnel under divisions (B), (C), and (D) of section	71103
3317.023 of the Revised Code;	71104
(g) Poverty-Based Assistance under section 3317.029 of the	71105
Revised Code;	71106
(h) Gifted education units under section 3317.05 of the	71107
Revised Code;	71108
(i) Transportation under the section of this act entitled	71109
"PUPIL TRANSPORTATION";	71110
(j) The state aid guarantee under section 3317.0212 of the	71111
Revised Code;	71112
(k) The excess cost supplement under division (F) of section	71113
3317.022 of the Revised Code;	71114
(l) Parity aid under section 3317.0217 of the Revised Code;	71115
(m) The reappraisal guarantee under division (C) of section	71116

3317.04 of the Revised Code; 71117

(n) The charge-off supplement under section 3317.0216 of the Revised Code. 71118
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(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, plus any transitional aid paid to the district under this section, that the district actually received in fiscal year 2006. 71120
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(3) The SF-3 funding plus charge-off supplement in each fiscal year for each district is the sum of the amounts specified in divisions (B)(1)(a) to (n) 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. 71132
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(C)(1) When calculating the reappraisal guarantee under division (C) or (D) of section 3317.04 of the Revised Code in fiscal year 2006, the Department shall include in a school district's fiscal year 2005 payments any transitional aid paid to the district in fiscal year 2005 under Section 41.37 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended. 71137
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(2) When calculating the reappraisal guarantee under division (C) or (D) of section 3317.04 of the Revised Code in fiscal year 2007, the Department shall include in a school district's fiscal year 2006 payments any transitional aid paid to the district in fiscal year 2006 under this section. 71143
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(3) When calculating the reappraisal guarantee under division 71148
(C) or (D) of section 3317.04 of the Revised Code in fiscal year 71149
2008, the Department shall include in a school district's fiscal 71150
year 2007 payments any transitional aid paid to the district in 71151
fiscal year 2007 under this section. 71152

Section 206.09.42. TRANSITIONAL AID FOR JOINT VOCATIONAL 71153
SCHOOL DISTRICTS 71154

(A) The Department of Education shall distribute funds within 71155
appropriation item 200-550, Foundation Funding, for transitional 71156
aid in fiscal year 2007 to each joint vocational school district 71157
that experiences a decrease in its joint vocational funding for 71158
fiscal year 2007 exceeding 5% of its joint vocational funding for 71159
fiscal year 2006. The Department shall distribute to each such 71160
district transitional aid in an amount to reduce the decrease to 71161
5% of the district's joint vocational funding for fiscal year 71162
2006. 71163

The Department shall make no payments under this section in 71164
fiscal year 2006. 71165

(B)(1) Subject to divisions (B)(2) and (3) of this section, a 71166
district's joint vocational funding equals the sum of the 71167
following: 71168

(a) Base-cost funding under division (B) of section 3317.16 71169
of the Revised Code; 71170

(b) Special education and related services additional 71171
weighted funding under division (D)(1) of section 3317.16 of the 71172
Revised Code; 71173

(c) Speech services funding under division (D)(2) of section 71174
3317.16 of the Revised Code; 71175

(d) Vocational education additional weighted funding under 71176
division (C) of section 3317.16 of the Revised Code; 71177

(e) GRADS funding under division (R) of section 3317.024 of the Revised Code;	71178 71179
(f) The state aid guarantee under division (H) of section 3317.16 of the Revised Code.	71180 71181
(2) For purposes of calculating transitional aid in fiscal year 2007, a district's fiscal year 2006 joint vocational funding is the sum of the amounts described in divisions (B)(1)(a) to (f) of this section, plus any transitional aid paid to the district under this section, that the district actually received in fiscal year 2006.	71182 71183 71184 71185 71186 71187
(3) The joint vocational funding in each fiscal year for each district is the sum of the amounts specified in divisions (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.	71188 71189 71190 71191 71192
EMERGENCY LOAN INTEREST SUBSIDY	71193
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.	71194 71195 71196 71197 71198 71199 71200 71201
Section 206.09.45. READING/WRITING IMPROVEMENT-CLASSROOM GRANTS	71202 71203
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	71204 71205 71206

schools in city, local, and exempted village school districts; 71207
community schools; and educational service centers serving 71208
kindergarten through twelfth grade students to help struggling 71209
students improve their reading skills, improve reading outcomes in 71210
low-performing schools, and help close achievement gaps. 71211

SAFE AND SUPPORTIVE SCHOOLS 71212

Of the foregoing appropriation item 200-578, Safe and 71213
Supportive Schools, up to \$224,250 in each fiscal year shall be 71214
used to fund a safe school center to provide resources for parents 71215
and for school and law enforcement personnel. 71216

The remainder of the appropriation shall be distributed based 71217
on guidelines developed by the Department of Education to enhance 71218
school safety. The guidelines shall provide a list of 71219
research-based best practices and programs from which local 71220
grantees shall select based on local needs. These practices shall 71221
include, but not be limited to, school resource officers and safe 71222
and drug free school coordinators and social-emotional development 71223
programs. 71224

Section 206.09.48. PROPERTY TAX ALLOCATION - EDUCATION 71225

The Superintendent of Public Instruction shall not request, 71226
and the Controlling Board shall not approve, the transfer of funds 71227
from appropriation item 200-901, Property Tax Allocation - 71228
Education, to any other appropriation item. 71229

The appropriation item 200-901, Property Tax Allocation - 71230
Education, is appropriated to pay for the state's costs incurred 71231
because of the homestead exemption and the property tax rollback. 71232
In cooperation with the Department of Taxation, the Department of 71233
Education shall distribute these funds directly to the appropriate 71234
school districts of the state, notwithstanding sections 321.24 and 71235
323.156 of the Revised Code, which provide for payment of the 71236

homestead exemption and property tax rollback by the Tax
Commissioner to the appropriate county treasurer and the
subsequent redistribution of these funds to the appropriate local
taxing districts by the county auditor.

Appropriation item 200-906, Tangible Tax Exemption -
Education, is appropriated to pay for the state's costs incurred
because of the tangible personal property tax exemption required
by division (C)(3) of section 5709.01 of the Revised Code. In
cooperation with the Department of Taxation, the Department of
Education shall distribute to each county treasurer the total
amount appearing in the notification from the county treasurer
under division (G) of section 321.24 of the Revised Code, for all
school districts located in the county, notwithstanding section
321.24 of the Revised Code insofar as it provides for payment of
the \$10,000 tangible personal property tax exemption by the Tax
Commissioner to the appropriate county treasurer for all local
taxing districts located in the county. Pursuant to division (G)
of section 321.24 of the Revised Code, the county auditor shall
distribute the amount paid by the Department of Education among
the appropriate school districts.

Upon receipt of these amounts, each school district shall
distribute the amount among the proper funds as if it had been
paid as real or tangible personal property taxes. Payments for the
costs of administration shall continue to be paid to the county
treasurer and county auditor as provided for in sections 319.54,
321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically
appropriated in appropriation items 200-901, Property Tax
Allocation - Education, for the homestead exemption and the
property tax rollback payments, and 200-906, Tangible Tax
Exemption - Education, for the \$10,000 tangible personal property
tax exemption payments, which are determined to be necessary for

these purposes, are hereby appropriated. 71269

Section 206.09.51. TEACHER CERTIFICATION AND LICENSURE 71270

The foregoing appropriation item 200-681, Teacher 71271
Certification and Licensure, shall be used by the Department of 71272
Education in each year of the biennium to administer and support 71273
teacher certification and licensure activities. 71274

SCHOOL DISTRICT SOLVENCY ASSISTANCE 71275

Of the foregoing appropriation item 200-687, School District 71276
Solvency Assistance, \$9,000,000 in each fiscal year shall be 71277
allocated to the School District Shared Resource Account and 71278
\$9,000,000 in each fiscal year shall be allocated to the 71279
Catastrophic Expenditures Account. These funds shall be used to 71280
provide assistance and grants to school districts to enable them 71281
to remain solvent under section 3316.20 of the Revised Code. 71282
Assistance and grants shall be subject to approval by the 71283
Controlling Board. Any required reimbursements from school 71284
districts for solvency assistance shall be made to the appropriate 71285
account in the School District Solvency Assistance Fund (Fund 71286
5H3). 71287

Notwithstanding any provision of law to the contrary, upon 71288
the request of the Superintendent of Public Instruction, the 71289
Director of Budget and Management may make transfers to the School 71290
District Solvency Assistance Fund (Fund 5H3) from any Department 71291
of Education-administered fund or the General Revenue Fund to 71292
maintain sufficient cash balances in the School District Solvency 71293
Assistance Fund (Fund 5H3) in fiscal years 2006 and 2007. Any 71294
funds transferred are hereby appropriated. The transferred funds 71295
may be used by the Department of Education to provide assistance 71296
and grants to school districts to enable them to remain solvent 71297
and to pay unforeseeable expenses of a temporary or emergency 71298

nature that the school district is unable to pay from existing 71299
resources. The Director of Budget and Management shall notify the 71300
members of the Controlling Board of any such transfers. 71301

READING FIRST 71302

The foregoing appropriation item 200-632, Reading First, 71303
shall be used by school districts to administer federal diagnostic 71304
tests as well as other functions permitted by federal statute. 71305
Notwithstanding section 3301.079 of the Revised Code, federal 71306
diagnostic tests may be recognized as meeting the state diagnostic 71307
testing requirements outlined in section 3301.079 of the Revised 71308
Code. 71309

HALF-MILL MAINTENANCE EQUALIZATION 71310

The foregoing appropriation item 200-626, Half-Mill 71311
Maintenance Equalization, shall be used in fiscal year 2007 to 71312
make payments pursuant to section 3318.111 of the Revised Code. 71313

Section 206.09.54. EARLY LEARNING INITIATIVE 71314

(A) As used in this section: 71315

(1) "Title IV-A services" means benefits and services that 71316
are allowable under Title IV-A of the "Social Security Act," as 71317
specified in 42 U.S.C. 604(a), except that they shall not be 71318
benefits and services included in the term "assistance" as defined 71319
in 45 C.F.R. 260.31(a) and shall be benefits and services that are 71320
excluded from the definition of the term "assistance" under 45 71321
C.F.R. 260.31(b). 71322

(2) "Title IV-A funds" means funds provided under the 71323
temporary assistance for needy families block grant established by 71324
Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 71325
U.S.C. 601, as amended. 71326

(3) "Child care" has the same meaning as in section 5104.01 71327

of the Revised Code. 71328

(4) "Eligible child" means a child eligible for Title IV-A 71329
services whose family income does not exceed one hundred 71330
eighty-five per cent of the federal poverty line. 71331

(5) "Early learning program" means a program for eligible 71332
children that is funded with Title IV-A funds and provides Title 71333
IV-A services that are both of the following: 71334

(a) Early learning services, as defined by the Department of 71335
Education pursuant to division (C)(1) of this section; 71336

(b) Child care. 71337

(6) "Early learning provider" means an entity that is 71338
receiving Title IV-A funds to operate an early learning program. 71339

(7) "Early learning agency" means an early learning provider 71340
or an entity that has entered into an agreement with an early 71341
learning provider requiring the early learning provider to operate 71342
an early learning program on behalf of the entity. 71343

(8) "Federal poverty line" has the same meaning as in section 71344
5104.01 of the Revised Code. 71345

(B) The Early Learning Initiative is hereby established. The 71346
Initiative shall be administered by the Department of Education 71347
and the Department of Job and Family Services in accordance with 71348
sections 5101.80 and 5101.801 of the Revised Code. The Initiative 71349
shall provide early learning programs and child care to eligible 71350
children. 71351

(C) The Department of Education shall do all of the 71352
following: 71353

(1) Define the early learning services that will be provided 71354
to eligible children through the Early Learning Initiative; 71355

(2) In consultation with the Department of Job and Family 71356

Services, 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.

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(3) Establish early learning program guidelines for school
readiness to assess the operation of early learning programs. The
standards shall incorporate academic performance data of
participating children to evaluate their preparedness for
kindergarten upon completion of an early learning program.

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(D) Any entity that seeks to be an early learning agency
shall apply to the Department of Education by a deadline
established by the Department. The Department of Education shall
select entities that meet the criteria established under division
(C)(2) of this section to be early learning agencies. Upon
selection of an entity to be an early learning agency, the
Department of Education shall designate the number of eligible
children the agency will serve. The Department of Education shall
notify the Office of Budget and Management and the Department of
Job and Family Services of the number so designated.

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(E) The Department of Education and the Department of Job and
Family Services shall enter into a contract with each early
learning agency selected under division (D) of this section. The
contract shall outline the terms and conditions applicable to the
provision of Title IV-A services for eligible children and shall
include at least the following:

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(1) The respective duties of the early learning agency, the

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Department of Education, and the Department of Job and Family Services;	71388 71389
(2) Requirements applicable to the allowable use of and accountability for Title IV-A funds;	71390 71391
(3) A requirement that the amount used by the early learning agency for development and administrative costs shall not exceed fifteen per cent of the total approved costs for the early learning program;	71392 71393 71394 71395
(4) Reporting requirements;	71396
(5) The reimbursement methodology, including a requirement that reimbursement shall be based upon the weekly attendance rate of each eligible child;	71397 71398 71399
(6) Audit requirements;	71400
(7) Provisions for suspending, modifying, or terminating the contract;	71401 71402
(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.	71403 71404 71405 71406
The requirements of section 127.16 of the Revised Code do not apply to contracts entered into under this section.	71407 71408
(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.	71409 71410 71411 71412 71413 71414 71415 71416
(G) If an early learning agency fails to implement a	71417

corrective action plan under division (F) of this section, the 71418
Department of Education may direct the Department of Job and 71419
Family Services to withhold funding from the agency or either the 71420
Department of Education or the Department of Job and Family 71421
Services may suspend or terminate the contract with the agency. 71422

(H) Of the foregoing appropriation item 200-663, Early 71423
Learning Initiative, up to \$2,200,000 in each fiscal year may be 71424
used by the Department of Education to perform administrative 71425
functions for the Early Learning Initiative. The Director of 71426
Budget and Management may transfer appropriation, as needed, from 71427
the Department of Education, appropriation item 200-663, Early 71428
Learning Initiative in Fund 5W2, to the Department of Job and 71429
Family Services, appropriation item 600-689, TANF Block Grant in 71430
Fund 3V6, for the successful operation of the Early Learning 71431
Initiative. This transfer shall take place not less than fifteen 71432
days after the Department of Education has provided the Office of 71433
Budget and Management and the Department of Job and Family 71434
Services its determination as to the number of children to be 71435
served by each early learning agency under division (D) of this 71436
section. The appropriation transferred is hereby authorized. 71437

Section 206.09.55. AUXILIARY SERVICES REIMBURSEMENT 71438

Notwithstanding section 3317.064 of the Revised Code, if the 71439
unobligated cash balance is sufficient, the Treasurer of State 71440
shall transfer \$1,500,000 in fiscal year 2006 within thirty days 71441
after the effective date of this section, and \$1,500,000 in fiscal 71442
year 2007 by August 1, 2006, from the Auxiliary Services Personnel 71443
Unemployment Compensation Fund to the Department of Education's 71444
Auxiliary Services Reimbursement Fund (Fund 598). 71445

Section 206.09.57. LOTTERY PROFITS EDUCATION FUND 71446

Appropriation item 200-612, Foundation Funding (Fund 017), 71447

shall be used in conjunction with appropriation item 200-550, 71448
Foundation Funding (GRF), to provide payments to school districts 71449
under Chapter 3317. of the Revised Code. 71450

The Department of Education, with the approval of the 71451
Director of Budget and Management, shall determine the monthly 71452
distribution schedules of appropriation item 200-550, Foundation 71453
Funding (GRF), and appropriation item 200-612, Foundation Funding 71454
(Fund 017). If adjustments to the monthly distribution schedule 71455
are necessary, the Department of Education shall make such 71456
adjustments with the approval of the Director of Budget and 71457
Management. 71458

The Director of Budget and Management shall transfer via 71459
intrastate transfer voucher the amount appropriated under the 71460
Lottery Profits Education Fund for appropriation item 200-682, 71461
Lease Rental Payment Reimbursement, to the General Revenue Fund on 71462
a schedule determined by the director. These funds shall support 71463
the appropriation item 230-428, Lease Rental Payments (GRF), of 71464
the School Facilities Commission. 71465

Section 206.09.60. LOTTERY PROFITS EDUCATION RESERVE FUND 71466

(A) There is hereby created the Lottery Profits Education 71467
Reserve Fund (Fund 018) in the State Treasury. Investment earnings 71468
of the Lottery Profits Education Reserve Fund shall be credited to 71469
the fund. The Superintendent of Public Instruction may certify 71470
cash balances exceeding \$75,000,000 in the Lottery Profits 71471
Education Reserve Fund (Fund 018) to the Director of Budget and 71472
Management in June of any given fiscal year. Prior to making the 71473
certification, the Superintendent of Public Instruction shall 71474
determine whether the funds above the \$75,000,000 threshold are 71475
needed to help pay for foundation program obligations for that 71476
fiscal year under Chapter 3317. of the Revised Code. If those 71477
funds are needed for the foundation program, the Superintendent of 71478

Public Instruction shall notify and consult with the Director of
Budget and Management to determine the amount that may be
transferred to the Public School Building Fund (Fund 021). Upon
this determination, the Director of Budget and Management shall
transfer the amount from the Lottery Profits Education Reserve
Fund (Fund 018) to the Public School Building Fund (Fund 021). The
amount transferred is hereby appropriated to appropriation item
CAP-622, Public School Buildings.

For fiscal years 2006 and 2007, notwithstanding any
provisions of law to the contrary, amounts necessary to make loans
authorized by sections 3317.0210, 3317.0211, and 3317.62 of the
Revised Code are hereby appropriated to the Lottery Profits
Education Reserve Fund (Fund 018). Loan repayments from loans made
in previous years shall be deposited to the fund.

(B) On July 15, 2005, or as soon as possible thereafter, the
Director of the Ohio Lottery Commission shall certify to the
Director of Budget and Management the amount by which lottery
profit transfers received by the Lottery Profits Education Fund
(Fund 017) exceeded \$637,900,000 in fiscal year 2005. The Director
of Budget and Management shall transfer the amount so certified,
plus the cash balance in Fund 017, to the Lottery Profits
Education Reserve Fund (Fund 018).

(C) On July 15, 2006, or as soon as possible thereafter, the
Director of the Ohio Lottery Commission shall certify to the
Director of Budget and Management the amount by which lottery
profit transfers received by the Lottery Profits Education Fund
(Fund 017) exceeded \$637,900,000 in fiscal year 2006. The Director
of Budget and Management shall transfer the amount so certified,
plus the cash balance in Fund 017, to the Lottery profits
Education Reserve Fund (Fund 018).

(D) Any amounts transferred under division (B) or (C) of this

section may be made available by the Controlling Board in fiscal 71510
years 2006 or 2007, at the request of the Superintendent of Public 71511
Instruction, to provide assistance and grants to school districts 71512
to enable them to remain solvent and to pay unforeseeable expenses 71513
of a temporary or emergency nature that they are unable to pay 71514
from existing resources under section 3316.20 of the Revised Code, 71515
and to provide payments to school districts under Chapter 3317. of 71516
the Revised Code. 71517

Section 206.09.61. GENERAL REVENUE FUND TRANSFERS TO SCHOOL 71518
DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 047) 71519

Notwithstanding any provision of law to the contrary, the 71520
Director of Budget and Management shall transfer \$10,010,000 in 71521
fiscal year 2006 and \$70,210,000 in fiscal year 2007 from the 71522
General Revenue Fund to appropriation item 200-900, School 71523
District Property Tax Replacement - Business (Fund 047) in the 71524
Department of Education. The funds shall be used to reimburse 71525
school districts and joint vocational districts under section 71526
5751.21 of the Revised Code. 71527

Section 206.09.63. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - 71528
BUSINESS 71529

The foregoing appropriation item, 200-900, School District 71530
Property Tax Replacement - Business, in Fund 047, shall be used by 71531
the Department of Education, in consultation with the Department 71532
of Taxation, to make payments to school districts and joint 71533
vocational school districts under section 5751.21 of the Revised 71534
Code. 71535

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY 71536

The foregoing appropriation item 200-900, School District 71537
Property Tax Replacement-Utility, in Fund 053, shall be used by 71538
the Department of Education, in consultation with the Department 71539

of Taxation, to make payments to school districts and joint 71540
vocational school districts under section 5727.85 of the Revised 71541
Code. 71542

***Section 206.09.66. DISTRIBUTION FORMULAS** 71543

The Department of Education shall report the following to the 71544
Director of Budget and Management, the Legislative Office of 71545
Education Oversight, and the Legislative Service Commission: 71546

(A) Changes in formulas for distributing state 71547
appropriations, including administratively defined formula 71548
factors; 71549

(B) Discretionary changes in formulas for distributing 71550
federal appropriations; 71551

(C) Federally mandated changes in formulas for distributing 71552
federal appropriations. 71553

Any such changes shall be reported two weeks prior to the 71554
effective date of the change. 71555

Section 206.09.69. EDUCATIONAL SERVICE CENTERS FUNDING 71556

(A) As used in this section: 71557

(1) "Internet- or computer-based community school" has the 71558
same meaning as in section 3314.02 of the Revised Code. 71559

(2) "Service center ADM" has the same meaning as in section 71560
3317.11 of the Revised Code. 71561

(B) Notwithstanding division (F) of section 3317.11 of the 71562
Revised Code, no funds shall be provided under that division to an 71563
educational service center in either fiscal year for any pupils of 71564
a city or exempted village school district unless an agreement to 71565
provide services under section 3313.843 of the Revised Code was 71566
entered into by January 1, 1997, except that funds shall be 71567

provided to an educational service center for any pupils of a city 71568
school district if the agreement to provide services was entered 71569
into within one year of the date upon which such district changed 71570
from a local school district to a city school district. 71571

(C) Notwithstanding any provision of the Revised Code to the 71572
contrary, an educational service center that sponsors a community 71573
school under Chapter 3314. of the Revised Code in either fiscal 71574
year may include the students of that community school in its 71575
service center ADM for purposes of state funding under division 71576
(F) of section 3317.11 of the Revised Code, unless the community 71577
school is an Internet- or computer-based community school. A 71578
service center shall include the community school students in its 71579
service center ADM only to the extent that the students are not 71580
already so included, and only in accordance with guidelines issued 71581
by the Department of Education. If the students of a community 71582
school sponsored by an educational service center are included in 71583
the service center ADM of another educational service center, 71584
those students shall be removed from the service center ADM of the 71585
other educational service center and added to the service center 71586
ADM of the community school's sponsoring service center. The 71587
General Assembly authorizes this procedure as an incentive for 71588
educational service centers to take over sponsorship of community 71589
schools from the State Board of Education as the State Board's 71590
sponsorship is phased out in accordance with Sub. H.B. 364 of the 71591
124th General Assembly. No student of an Internet- or 71592
computer-based community school shall be counted in the service 71593
center ADM of any educational service center. The Department shall 71594
pay educational service centers under division (F) of section 71595
3317.11 of the Revised Code for community school students included 71596
in their service center ADMs under this division only if 71597
sufficient funds earmarked within appropriation item 200-550, 71598
Foundation Funding, for payments under that division remain after 71599

first paying for students attributable to their local and client 71600
school districts, in accordance with divisions (B) and (D) of this 71601
section. 71602

(D) If insufficient funds are earmarked within appropriation 71603
item 200-550, Foundation Funding, for payments under division (F) 71604
of section 3317.11 of the Revised Code and division (C) of this 71605
section in fiscal year 2006 or fiscal year 2007, the Department 71606
shall prioritize the distribution of the earmarked funds as 71607
follows: 71608

(1) The Department shall first distribute to each educational 71609
service center the per-student amount specified in division (F) of 71610
section 3317.11 of the Revised Code for each student in its 71611
service center ADM attributable to the local school districts 71612
within the service center's territory. 71613

(2) The Department shall distribute the remaining funds in 71614
each fiscal year to each educational service center for the 71615
students in its service center ADM attributable to each city and 71616
exempted village school district that had entered into an 71617
agreement with an educational service center for that fiscal year 71618
under section 3313.843 of the Revised Code by January 1, 1997, up 71619
to the per-student amount specified in division (F) of section 71620
3317.11 of the Revised Code. If insufficient funds remain to pay 71621
each service center the full amount specified in division (F) of 71622
that section for each such student, the Department shall 71623
distribute the remaining funds to each service center 71624
proportionally, on a per-student basis for each such student, 71625
unless that proportional per-student amount exceeds the amount 71626
specified in division (F)(1) of that section. In that case, the 71627
Department shall distribute the per-student amount specified in 71628
division (F)(1) of that section to each service center for each 71629
such student and shall distribute the remainder proportionally, on 71630
a per-student basis for each such student, to the multi-county 71631

service centers described in division (F)(2) of that section. 71632

(3) If the Department has paid each service center under 71633
divisions (D)(1) and (2) of this section, the full amount 71634
specified in division (F) of section 3317.11 of the Revised Code 71635
for each student attributable to its local school districts and 71636
its client school districts described in division (D)(2) of this 71637
section the Department shall distribute any remaining funds 71638
proportionally, on a per-student basis, to each service center 71639
that sponsors a community school, other than an Internet- or 71640
computer-based community school, for the students included in the 71641
service center ADM under division (C) of this section. These 71642
payments shall not exceed per student the amount specified in 71643
division (F) of section 3317.11 of the Revised Code. 71644

***Section 206.09.72.** For the school year commencing July 1, 71645
2005, or the school year commencing July 1, 2006, or both, the 71646
Superintendent of Public Instruction may waive for the board of 71647
education of any school district the ratio of teachers to pupils 71648
in kindergarten through fourth grade required under paragraph 71649
(A)(3) of rule 3301-35-05 of the Administrative Code if the 71650
following conditions apply: 71651

(A) The board of education requests the waiver. 71652

(B) After the Department of Education conducts an on-site 71653
evaluation of the district related to meeting the required ratio, 71654
the board of education demonstrates to the satisfaction of the 71655
Superintendent of Public Instruction that providing the facilities 71656
necessary to meet the required ratio during the district's regular 71657
school hours with pupils in attendance would impose an extreme 71658
hardship on the district. 71659

(C) The board of education provides assurances that are 71660
satisfactory to the Superintendent of Public Instruction that the 71661

board will act in good faith to meet the required ratio as soon as possible. 71662
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Section 206.09.75. PRIVATE TREATMENT FACILITY PROJECT 71664

(A) As used in this section: 71665

(1) The following are "participating residential treatment centers": 71666
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(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2006 or fiscal year 2007 or both, the Department pays through appropriation item 470-401, Care and Custody; 71668
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(b) Abraxas, in Shelby; 71674

(c) Paint Creek, in Bainbridge; 71675

(d) Act One, in Akron; 71676

(e) Friars Club, in Cincinnati. 71677

(2) "Education program" means an elementary or secondary education program or a special education program and related services. 71678
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(3) "Served child" means any child receiving an education program pursuant to division (B) of this section. 71681
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(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition. 71683
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(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an 71688
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educational program under division (B) of this section.

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(B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the educational program shall be contingent upon compliance with the criteria established for such programs by the Department of Education. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall provide the educational program at the treatment center to children under twenty-two years of age residing in the treatment center.

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(C) Any school district responsible for tuition for a residential child shall, notwithstanding any conflicting provision of the Revised Code regarding tuition payment, pay tuition for the child for fiscal year 2006 and fiscal year 2007 to the education program provider and in the amount specified in this division. If there is no school district responsible for tuition for a residential child and if the participating residential treatment center to which the child is assigned is located in the city, exempted village, or local school district that, if the child were not a resident of that treatment center, would be the school district where the child is entitled to attend school under sections 3313.64 and 3313.65 of the Revised Code, that school district, notwithstanding any conflicting provision of the Revised Code, shall pay tuition for the child for fiscal year 2006 and

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fiscal year 2007 under this division unless that school district
is providing the educational program to the child under division
(B) of this section.

A tuition payment under this division shall be made to the
school district, educational service center, or residential
treatment facility providing the educational program to the child.

The amount of tuition paid shall be:

(1) The amount of tuition determined for the district under
division (A) of section 3317.08 of the Revised Code;

(2) In addition, for any student receiving special education
pursuant to an individualized education program as defined in
section 3323.01 of the Revised Code, a payment for excess costs.
This payment shall equal the actual cost to the school district,
educational service center, or residential treatment facility of
providing special education and related services to the student
pursuant to the student's individualized education program, minus
the tuition paid for the child under division (C)(1) of this
section.

A school district paying tuition under this division shall
not include the child for whom tuition is paid in the district's
average daily membership certified under division (A) of section
3317.03 of the Revised Code.

(D) In each of fiscal years 2006 and 2007, the Department of
Education shall reimburse, from appropriations made for the
purpose, a school district, educational service center, or
residential treatment facility, whichever is providing the
service, that has demonstrated that it is in compliance with the
funding criteria for each served child for whom a school district
must pay tuition under division (C) of this section. The amount of
the reimbursement shall be the formula amount specified in section
3317.022 of the Revised Code, except that the department shall

proportionately reduce this reimbursement if sufficient funds are 71753
not available to pay this amount to all qualified providers. 71754

(E) Funds provided to a school district, educational service 71755
center, or residential treatment facility under this section shall 71756
be used to supplement, not supplant, funds from other public 71757
sources for which the school district, service center, or 71758
residential treatment facility is entitled or eligible. 71759

(F) The Department of Education shall track the utilization 71760
of funds provided to school districts, educational service 71761
centers, and residential treatment facilities under this section 71762
and monitor the effect of the funding on the educational programs 71763
they provide in participating residential treatment facilities. 71764
The department shall monitor the programs for educational 71765
accountability. 71766

Section 206.09.78. SCHOOL DISTRICT PARTICIPATION IN NATIONAL 71767
ASSESSMENT OF EDUCATION PROGRESS 71768

The General Assembly intends for the Superintendent of Public 71769
Instruction to provide for school district participation in the 71770
administration of the National Assessment of Education Progress in 71771
accordance with section 3301.27 of the Revised Code. Each school 71772
and school district selected for participation by the 71773
Superintendent of Public Instruction shall participate. 71774

Section 206.09.81. DEPARTMENT OF EDUCATION APPROPRIATION 71775
TRANSFERS FOR STUDENT ASSESSMENT 71776

In fiscal year 2006 and fiscal year 2007, if the 71777
Superintendent of Public Instruction determines that additional 71778
funds are needed to fully fund the requirements of Am. Sub. H.B. 3 71779
of the 125th General Assembly for assessments of student 71780
performance, the Superintendent of Public Instruction may 71781
recommend the reallocation of unspent and unencumbered 71782

appropriations within the Department of Education to the General Revenue Fund appropriation item 200-437, Student Assessment, to the Director of Budget and Management. If the Director of Budget and Management determines that such a reallocation is required, the Director of Budget and Management may transfer unspent and unencumbered funds within the Department of Education as necessary to appropriation item 200-437, Student Assessment.

Section 206.09.84. (A) As used in this section:

(1) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 and 3313.65 of the Revised Code.

(2) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code.

(3) "Individualized education program" has the same meaning as in section 3323.01 of the Revised Code.

(4) "Parent" has the same meaning as in section 3313.64 of the Revised Code.

(5) "Qualified special education child" is a child for whom all of the following conditions apply:

(a) The school district in which the child is entitled to attend school has identified the child as autistic.

(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.

(c) The child either:

(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

(ii) Is eligible to enter school in any grade preschool 71812
through twelve in the school district in which the child is 71813
entitled to attend school in the school year in which a 71814
scholarship under this section is first sought for the child. 71815

(6) "Registered private provider" means a nonpublic school or 71816
other nonpublic entity that has been approved by the Department of 71817
Education to participate in the program established under this 71818
section. 71819

(B) There is hereby established the Pilot Project Special 71820
Education Scholarship Program. Under the program, in fiscal years 71821
2006 and 2007, the Department of Education shall pay a scholarship 71822
to the parent of each qualified special education child upon 71823
application of that parent pursuant to procedures and deadlines 71824
established by rule of the State Board of Education. Each 71825
scholarship shall be used only to pay tuition for the child on 71826
whose behalf the scholarship is awarded to attend a special 71827
education program that implements the child's individualized 71828
education program and that is operated by a school district other 71829
than the school district in which the child is entitled to attend 71830
school, by another public entity, or by a registered private 71831
provider. Each scholarship shall be in an amount not to exceed the 71832
lesser of the tuition charged for the child by the special 71833
education program or twenty thousand dollars. The purpose of the 71834
scholarship is to permit the parent of a qualified special 71835
education child the choice to send the child to a special 71836
education program, instead of the one operated by or for the 71837
school district in which the child is entitled to attend school, 71838
to receive the services prescribed in the child's individualized 71839
education program once the individualized education program is 71840
finalized. A scholarship under this section shall not be awarded 71841
to the parent of a child while the child's individualized 71842
education program is being developed by the school district in 71843

which the child is entitled to attend school, or while any 71844
administrative or judicial mediation or proceedings with respect 71845
to the content of the child's individualized education program are 71846
pending. A scholarship under this section shall not be used for a 71847
child to attend a public special education program that operates 71848
under a contract, compact, or other bilateral agreement between 71849
the school district in which the child is entitled to attend 71850
school and another school district or other public provider, or 71851
for a child to attend a community school established under Chapter 71852
3314. of the Revised Code. However, nothing in this section or in 71853
any rule adopted by the State Board of Education shall prohibit a 71854
parent whose child attends a public special education program 71855
under a contract, compact, or other bilateral agreement, or a 71856
parent whose child attends a community school, from applying for 71857
and accepting a scholarship under this section so that the parent 71858
may withdraw the child from that program or community school and 71859
use the scholarship for the child to attend a special education 71860
program for which the parent is required to pay for services for 71861
the child. A child attending a special education program with a 71862
scholarship under this section shall continue to be entitled to 71863
transportation to and from that program in the manner prescribed 71864
by law. 71865

(C)(1) Notwithstanding anything to the contrary in the 71866
Revised Code, a child for whom a scholarship is awarded under this 71867
section shall be counted in the formula ADM and the category six 71868
special education ADM of the district in which the child is 71869
entitled to attend school and not in the formula ADM and the 71870
category six special education ADM of any other school district. 71871

(2) In each fiscal year, the Department shall deduct from the 71872
amounts paid to each school district under Chapter 3317. of the 71873
Revised Code, and, if necessary, sections 321.24 and 323.156 of 71874
the Revised Code, the aggregate amount of scholarships awarded 71875

under this section for qualified special education children 71876
included in the formula ADM and category six special education ADM 71877
of that school district as provided in division (C)(1) of this 71878
section. The scholarships deducted shall be considered as an 71879
approved special education and related services expense for the 71880
purpose of the school district's compliance with division (C)(5) 71881
of section 3317.022 of the Revised Code. 71882

(3) From time to time, the Department shall make a payment to 71883
the parent of each qualified special education child for whom a 71884
scholarship has been awarded under this section. The scholarship 71885
amount shall be proportionately reduced in the case of any such 71886
child who is not enrolled in the special education program for 71887
which a scholarship was awarded under this section for the entire 71888
school year. The Department shall make no payments to the parent 71889
of a child while any administrative or judicial mediation or 71890
proceedings with respect to the content of the child's 71891
individualized education program are pending. 71892

(D) A scholarship shall not be paid to a parent for payment 71893
of tuition owed to a nonpublic entity unless that entity is a 71894
registered private provider. The Department shall approve entities 71895
that meet the standards established by rule of the State Board for 71896
the program established under this section. 71897

(E) The State Board shall adopt rules under Chapter 119. of 71898
the Revised Code prescribing procedures necessary to implement 71899
this section, including, but not limited to, procedures and 71900
deadlines for parents to apply for scholarships, standards for 71901
registered private providers, and procedures for approval of 71902
entities as registered private providers. The Board shall adopt 71903
the rules so that the program established under this section is 71904
operational by January 1, 2004. 71905

Section 206.09.87. (A) In the 2005-2006 and 2006-2007 school 71906

years, within three months after a student identified with 71907
disabilities begins receiving services for the first time under an 71908
individualized education program, as defined in section 3323.01 of 71909
the Revised Code, the school district in which that student is 71910
enrolled shall require the student to undergo a comprehensive eye 71911
examination performed either by an optometrist licensed under 71912
Chapter 4725. of the Revised Code or by a physician authorized 71913
under Chapter 4731. of the Revised Code to practice medicine and 71914
surgery or osteopathic medicine and surgery who is comprehensively 71915
trained and educated in the treatment of the human eye, eye 71916
disease, or comprehensive vision services, unless the student 71917
underwent such an examination within the nine-month period 71918
immediately prior to being identified with disabilities. 71919

However, no student who has not undergone the eye examination 71920
required under this section shall be prohibited from initiating, 71921
receiving, or continuing to receive services prescribed in the 71922
student's individualized education program. 71923

(B) The superintendent of each school district or the 71924
superintendent's designee may determine fulfillment of the 71925
requirement prescribed in division (A) of this section based on 71926
any special circumstances of the student, the student's parent, 71927
guardian, or family that may prevent the student from undergoing 71928
the eye examination prior to beginning special education services. 71929

(C) Except for a student who may be entitled to a 71930
comprehensive eye examination in the identification of the 71931
student's disabilities, in the development of the student's 71932
individualized education program, or as a related service under 71933
the student's individualized education program, neither the state 71934
nor any school district shall be responsible for paying for the 71935
eye examination required by this section. 71936

Section 206.09.90. INTERVENTION FUNDING 71937

State funding totaling \$153,489,868 in fiscal year 2006 and 71938
\$195,096,413 in fiscal year 2007 is provided to school districts 71939
for intervention or intervention related activities. School 71940
districts have flexibility in the use of this funding by which 71941
success is achieved for their students under section 3317.029 of 71942
the Revised Code. 71943

No later than December 31, 2006, each school district shall 71944
report intervention costs by type of intervention provided in a 71945
manner defined by the Department of Education. The report shall 71946
indicate separately both state and local dollars utilized by 71947
school districts for intervention activities. 71948

To the degree that school districts do not meet adequate 71949
progress standards as defined by the Department of Education, the 71950
Department shall use the reported information to intervene at the 71951
district and building levels to make recommendations on how state 71952
and local funding for intervention should be deployed in a more 71953
effective manner. This information shall also be used by the 71954
Department to inform its recommendations required in the section 71955
of this act entitled "DISTRICT SPENDING REQUIREMENTS." 71956

Section 206.09.93. EARMARK ACCOUNTABILITY 71957

At the request of the Superintendent of Public Instruction, 71958
any entity that receives a budget earmark under the Department of 71959
Education shall submit annually to the chairpersons of the 71960
committees of the House of Representatives and the Senate 71961
primarily concerned with education and to the Department of 71962
Education a report that includes a description of the services 71963
supported by the funds, a description of the results achieved by 71964
those services, an analysis of the effectiveness of the program, 71965
and an opinion as to the program's applicability to other school 71966

districts. For an earmarked entity that received state funds from 71967
an earmark in the prior fiscal year, no funds shall be provided by 71968
the Department of Education to an earmarked entity for a fiscal 71969
year until its report for the prior fiscal year has been 71970
submitted. 71971

Section 206.09.96. The School Funding Advisory Council is 71972
hereby created. The Council shall consist of not more than sixteen 71973
members, appointed as follows: 71974

(A) The Governor shall appoint up to six members, who shall 71975
be representatives of the business and education communities. 71976

(B) The Governor shall appoint one member from the Department 71977
of Education and up to three additional members from other 71978
executive branch agencies. 71979

(C) The Speaker of the House of Representatives shall appoint 71980
up to three members who are members of the House of 71981
Representatives, including at least one who is a member of the 71982
minority party of the House of Representatives. 71983

(D) The President of the Senate shall appoint up to three 71984
members who are members of the Senate, including at least one who 71985
is a member of the minority party of the Senate. 71986

The Governor, Speaker of the House of Representatives, and 71987
President of the Senate shall make their appointments not later 71988
than December 31, 2005. The Governor shall designate one 71989
representative of the business community appointed under division 71990
(A) of this section to serve as chairperson of the Council. 71991
Members shall serve without compensation. 71992

The Council shall examine research, including, but not 71993
limited to, research underway by Battelle for Kids and the 71994
University of Washington's Center for Reinventing Public 71995
Education, to further refine a building-blocks methodology for 71996

school funding so that increasingly stronger correlations exist 71997
between resources and academic results. The Council's other 71998
activities shall include, but not be limited to, examining 71999
timeline issues with regard to recommendations of the Governor's 72000
Blue Ribbon Task Force on Financing Student Success. The Council 72001
shall submit its recommendations to the Governor, the Speaker of 72002
the House of Representatives, and the President of the Senate not 72003
later than September 30, 2006. When it submits its 72004
recommendations, the Council shall cease to exist. 72005

Section 206.09.99. The revisions by this act to the 72006
Post-Secondary Enrollment Options Program established under 72007
Chapter 3365. of the Revised Code shall apply as follows: 72008

(A) The amendment to the definition of "tuition base" in 72009
section 3365.01 of the Revised Code, as amended by this act, shall 72010
apply to payments for courses taken beginning in the 2005-2006 72011
school year. 72012

(B) The requirement that a secondary grade student be a 72013
resident of this state in order to participate in the 72014
Post-Secondary Enrollment Options Program as specified in section 72015
3365.02 of the Revised Code, as amended by this act, shall not 72016
apply to students participating in the program during fiscal year 72017
2005. That requirement applies to students participating in the 72018
program after July 1, 2005, regardless of whether they 72019
participated in the program prior to that date. 72020

(C) The statement in section 3365.02 of the Revised Code, as 72021
amended by this act, concerning the purpose of the program applies 72022
to courses taken beginning in the 2005-2006 school year. 72023

(D) The provision prohibiting students enrolled in 72024
nonchartered nonpublic schools from participating in Option B of 72025
the program, as specified in sections 3365.02, 3365.021, 3365.04, 72026

3365.07, and 3365.10 of the Revised Code, as amended by this act, 72027
shall apply beginning in the 2006-2007 school year. 72028

(E) The provision prohibiting participating under Option B 72029
for enrollment in physical education college courses, as specified 72030
in sections 3365.02, 3365.04, and 3365.07 of the Revised Code, as 72031
amended by this act, shall apply beginning in the 2006-2007 school 72032
year. 72033

(F) The requirement to seek reimbursement for college courses 72034
that a student failed, as specified in section 3365.02 of the 72035
Revised Code, as amended by this act, and section 3365.11 of the 72036
Revised Code, shall apply to courses taken beginning in the 72037
2005-2006 school year. 72038

(G) The opportunity to elect high school credit under Option 72039
A of the program, as specified in sections 3365.04, 3365.041, 72040
3365.05, and 3365.08 of the Revised Code, as amended by this act, 72041
shall apply beginning in the 2005-2006 academic year. 72042

Section 206.10.03. Not later than September 1, 2005, the 72043
Superintendent of Public Instruction shall begin preparations to 72044
implement the Educational Choice Scholarship Program established 72045
by sections 3310.01 to 3310.17 of the Revised Code. The 72046
Superintendent shall ensure that school districts, nonpublic 72047
schools, students, and parents are informed of the Educational 72048
Choice Scholarship Program and how the Program may affect them. 72049
The Superintendent shall provide such information in sufficient 72050
time for affected parties to meet all deadlines imposed for 72051
participation in the Educational Choice Scholarship Program in the 72052
2006-2007 school year. The State Board of Education shall adopt 72053
the rules required by section 3310.16 of the Revised Code so that 72054
those rules are in effect and the Educational Choice Scholarship 72055
Program is operational in the school year that commences July 1, 72056
2006. 72057

The Superintendent shall select not more than 18,000 students 72058
in fiscal year 2007 to be awarded scholarships under the 72059
Educational Choice Scholarship Program. 72060

Section 206.10.06. There is hereby established a committee to 72061
study the consolidation of school districts. The committee shall 72062
consist of three members of the House of Representatives, 72063
appointed by the Speaker of the House of Representatives, and 72064
three members of the Senate, appointed by the President of the 72065
Senate. From each house, two members shall be of the majority 72066
party and one member shall be of the minority party. The Speaker 72067
of the House of Representatives shall designate the chairman of 72068
the committee. Members shall not receive compensation for their 72069
services. 72070

The committee shall study the feasibility of city, local, and 72071
exempted village school district consolidation and the economic 72072
impact, including possible cost savings, of consolidation for the 72073
state and school districts. If the committee determines school 72074
district consolidation is feasible, the committee shall recommend 72075
legislation to accomplish the consolidation. 72076

The committee shall report its findings to the General 72077
Assembly not later than one year after the effective date of this 72078
section. Copies of the findings shall be provided to the Governor, 72079
the President and Minority Leader of the Senate, the Speaker and 72080
Minority Leader of the House of Representatives, and the 72081
chairpersons, vice-chairpersons, and ranking minority members of 72082
the education committees of the House of Representatives and the 72083
Senate. Following its report of findings, the committee shall 72084
cease to exist. 72085

***Section 206.10.09.** Within thirty days after the effective 72086
date of this section, the Department of Education shall notify 72087

each entity approved to be a sponsor of community schools pursuant 72088
to division (B)(1) of section 3314.015 of the Revised Code prior 72089
to the effective date of this section and each entity that is not 72090
required to be so approved by section 3314.021 of the Revised Code 72091
or Section 6 of Sub. H.B. 364 of the 124th General Assembly of the 72092
number of schools the entity may sponsor under that division. 72093

Section 206.10.12. (A) The School Physical Fitness and 72094
Wellness Advisory Council is hereby established. The Council shall 72095
consist of the following members: 72096

(1) A representative of the Ohio Association for Health, 72097
Physical Education, Recreation and Dance, appointed by the 72098
Association; 72099

(2) A school food service director, appointed by the Ohio 72100
School Food Service Association; 72101

(3) A representative of the Ohio School Boards Association, 72102
appointed by the Association; 72103

(4) A registered dietician, appointed by the Ohio Dietetic 72104
Association; 72105

(5) A representative of the Ohio State Medical Association, 72106
appointed by the Association; 72107

(6) A representative of the food industry, appointed by the 72108
Ohio Chamber of Commerce; 72109

(7) A representative of the Ohio Parent Teacher Association, 72110
appointed by the Association; 72111

(8) A representative of the Ohio Soft Drink Association, 72112
appointed by the Association; 72113

(9) A representative of the Department of Education, 72114
appointed by the Superintendent of Public Instruction; 72115

(10) A representative of the Ohio Parks and Recreation Association, appointed by the Association.

(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.

(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. 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. 72148

Section 206.10.15. For fiscal years 2006 and 2007, the 72149
Department of Education shall provide funding to the Ohio Wyami 72150
Appalachian Teacher Cohorts Program under the Columbiana County 72151
Educational Service Center to provide teacher professional 72152
development in Ohio's Appalachian counties. The program shall 72153
provide professional development that is based on a review of 72154
scientifically based research and is expected to improve student 72155
academic achievement as required by Title II of the "No Child Left 72156
Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6612 et seq., for 72157
approximately eighty public and charter nonpublic teachers from 72158
Ohio's Appalachian counties each year. The Department of Education 72159
shall provide \$1,500,000 each fiscal year in federal grant funds 72160
from the State Grants For Improving Teacher Quality Program to the 72161
Columbiana County Educational Service Center for this purpose. 72162

Section 206.13. ELC OHIO ELECTIONS COMMISSION 72163

General Revenue Fund				72164
GRF 051-321 Operating Expenses	\$	411,623	\$ 411,623	72165
TOTAL GRF General Revenue Fund	\$	411,623	\$ 411,623	72166
General Services Fund Group				72167
4P2 051-601 Ohio Elections				72168
Commission Fund	\$	225,000	\$ 225,000	72169
TOTAL GSF General Services Fund	\$	225,000	\$ 225,000	72170
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	636,623	\$ 636,623	72171

Section 206.16. FUN STATE BOARD OF EMBALMERS AND FUNERAL 72173

DIRECTORS				72174
General Services Fund Group				72175
4K9 881-609 Operating Expenses	\$	598,933	\$ 0	72176

TOTAL GSF General Services				72177
Fund Group	\$	598,933	\$	0 72178
TOTAL ALL BUDGET FUND GROUPS	\$	598,933	\$	0 72179
 Section 206.19. ERB STATE EMPLOYMENT RELATIONS BOARD				72181
General Revenue Fund				72182
GRF 125-321 Operating Expenses	\$	3,265,397	\$ 3,363,359	72183
TOTAL GRF General Revenue Fund	\$	3,265,397	\$ 3,363,359	72184
General Services Fund Group				72185
572 125-603 Training and Publications	\$	75,541	\$ 75,541	72186
TOTAL GSF General Services				72187
Fund Group	\$	75,541	\$ 75,541	72188
TOTAL ALL BUDGET FUND GROUPS	\$	3,340,938	\$ 3,438,900	72189
 Section 206.24. ENG STATE BOARD OF ENGINEERS AND SURVEYORS				72191
General Services Fund Group				72192
4K9 892-609 Operating Expenses	\$	1,058,881	\$ 1,058,881	72193
TOTAL GSF General Services				72194
Fund Group	\$	1,058,881	\$ 1,058,881	72195
TOTAL ALL BUDGET FUND GROUPS	\$	1,058,881	\$ 1,058,881	72196
 Section 206.27. EPA ENVIRONMENTAL PROTECTION AGENCY				72198
General Revenue Fund				72199
GRF 715-403 Clean Ohio	\$	92,707	\$	0 72200
GRF 715-501 Local Air Pollution Control	\$	128,297	\$	0 72201
GRF 717-321 Surface Water	\$	1,112,342	\$	0 72202
GRF 718-321 Groundwater	\$	136,719	\$	0 72203
GRF 719-321 Air Pollution Control	\$	311,494	\$	0 72204
GRF 721-321 Drinking Water	\$	318,783	\$	0 72205
GRF 723-321 Hazardous Waste	\$	12,606	\$	0 72206

GRF 724-321	Pollution Prevention	\$	87,538	\$	0	72207
GRF 725-321	Laboratory	\$	152,043	\$	0	72208
GRF 726-321	Corrective Actions	\$	147,473	\$	0	72209
TOTAL GRF	General Revenue Fund	\$	2,500,002	\$	0	72210
General Services Fund Group						72211
199 715-602	Laboratory Services	\$	1,078,348	\$	1,083,574	72212
219 715-604	Central Support	\$	15,804,913	\$	16,345,805	72213
Indirect						
4A1 715-640	Operating Expenses	\$	3,369,731	\$	3,369,731	72214
5BZ 715-681	Auto Emissions Test	\$	8,100,000	\$	15,200,000	72215
TOTAL GSF	General Services					72216
Fund Group		\$	28,352,992	\$	35,999,110	72217
Federal Special Revenue Fund Group						72218
3F2 715-630	Revolving Loan Fund -	\$	152,021	\$	293,129	72219
Operating						
3F3 715-632	Fed Supported Cleanup	\$	2,792,648	\$	2,777,648	72220
and Response						
3F4 715-633	Water Quality	\$	710,000	\$	710,000	72221
Management						
3F5 715-641	Nonpoint Source	\$	7,815,000	\$	7,810,000	72222
Pollution Management						
3J1 715-620	Urban Stormwater	\$	706,000	\$	710,000	72223
3K2 715-628	Clean Water Act 106	\$	4,723,845	\$	5,023,846	72224
3K4 715-634	DOD Monitoring and	\$	1,450,333	\$	1,450,333	72225
Oversight						
3K6 715-639	Remedial Action Plan	\$	320,000	\$	319,000	72226
3N4 715-657	DOE Monitoring and	\$	3,181,736	\$	3,231,963	72227
Oversight						
3V7 715-606	Agencywide Grants	\$	458,115	\$	479,115	72228
352 715-611	Wastewater Pollution	\$	525,000	\$	530,000	72229
353 715-612	Public Water Supply	\$	3,384,959	\$	3,388,619	72230
354 715-614	Hazardous Waste	\$	4,203,891	\$	4,203,891	72231

		Management - Federal					
357	715-619	Air Pollution Control	\$	6,966,337	\$	7,243,950	72232
		- Federal					
362	715-605	Underground Injection	\$	111,874	\$	111,874	72233
		Control - Federal					
TOTAL FED		Federal Special Revenue					72234
Fund Group			\$	37,501,759	\$	38,283,368	72235
State Special Revenue		Fund Group					72236
3T3	715-669	Drinking Water SRF	\$	2,411,614	\$	2,482,910	72237
4J0	715-638	Underground Injection	\$	438,285	\$	458,418	72238
		Control					
4K2	715-648	Clean Air - Non Title	\$	3,234,278	\$	3,178,062	72239
		V					
4K3	715-649	Solid Waste	\$	13,800,377	\$	14,282,845	72240
4K4	715-650	Surface Water	\$	11,606,000	\$	12,420,000	72241
		Protection					
4K5	715-651	Drinking Water	\$	7,202,901	\$	7,492,035	72242
		Protection					
4P5	715-654	Cozart Landfill	\$	149,728	\$	149,728	72243
4R5	715-656	Scrap Tire Management	\$	6,000,000	\$	6,000,000	72244
4R9	715-658	Voluntary Action	\$	1,008,765	\$	1,032,098	72245
		Program					
4T3	715-659	Clean Air - Title V	\$	16,960,373	\$	17,180,980	72246
		Permit Program					
4U7	715-660	Construction &	\$	586,797	\$	582,305	72247
		Demolition Debris					
5BC	715-617	Clean Ohio	\$	648,939	\$	741,646	72248
5BC	715-622	Local Air Pollution	\$	898,072	\$	1,026,369	72249
		Control					
5BC	715-624	Surface Water	\$	7,685,071	\$	8,797,413	72250
5BC	715-667	Groundwater	\$	957,022	\$	1,093,741	72251
5BC	715-672	Air Pollution Control	\$	4,234,681	\$	5,199,290	72252
5BC	715-673	Drinking Water	\$	2,231,467	\$	2,550,250	72253

5BC	715-675	Hazardous Waste	\$	88,241	\$	100,847	72254
5BC	715-676	Assistance and Prevention	\$	612,764	\$	700,302	72255
5BC	715-677	Laboratory	\$	1,064,290	\$	1,216,333	72256
5BC	715-678	Corrective Action	\$	1,032,302	\$	1,179,775	72257
5H4	715-664	Groundwater Support	\$	2,325,922	\$	2,408,871	72258
5N2	715-613	Dredge and Fill	\$	30,000	\$	30,000	72259
500	715-608	Immediate Removal Special Account	\$	482,000	\$	482,000	72260
503	715-621	Hazardous Waste Facility Management	\$	11,270,231	\$	11,711,473	72261
505	715-623	Hazardous Waste Cleanup	\$	11,482,988	\$	11,482,988	72262
505	715-674	Clean Ohio Environmental Review	\$	104,500	\$	109,725	72263
541	715-670	Site Specific Cleanup	\$	33,000	\$	34,650	72264
542	715-671	Risk Management Reporting	\$	146,188	\$	146,188	72265
592	715-627	Anti Tampering Settlement	\$	17,203	\$	9,707	72266
6A1	715-645	Environmental Education	\$	1,500,000	\$	1,500,000	72267
602	715-626	Motor Vehicle Inspection and Maintenance	\$	1,190,944	\$	250,000	72268
644	715-631	ER Radiological Safety	\$	286,114	\$	286,114	72269
660	715-629	Infectious Waste Management	\$	160,000	\$	100,000	72270
676	715-642	Water Pollution Control Loan Administration	\$	4,964,625	\$	4,964,625	72271
678	715-635	Air Toxic Release	\$	210,621	\$	210,622	72272
679	715-636	Emergency Planning	\$	2,828,647	\$	2,828,647	72273

696	715-643	Air Pollution Control Administration	\$	750,000	\$	750,000	72274
699	715-644	Water Pollution Control Administration	\$	750,000	\$	750,000	72275
TOTAL SSR State Special Revenue Fund Group			\$	121,384,950	\$	125,920,957	72276
Clean Ohio Revitalization Fund Group							72277
5S1	715-607	Clean Ohio - Operating	\$	208,174	\$	208,174	72278
TOTAL CLF Clean Ohio Revitalization Fund Group			\$	208,174	\$	208,174	72279
TOTAL ALL BUDGET FUND GROUPS			\$	189,947,877	\$	200,411,609	72280
AUTOMOBILE EMISSIONS TESTS							72281
(A) There is hereby created the Auto Emissions Test Fund (Fund 5BZ). When renewing a contract to continue the E-check 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.							72282 72283 72284 72285 72286 72287 72288 72289 72290
(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							72291 72292 72293 72294 72295 72296 72297 72298 72299 72300 72301

Fund (Fund H87) shall be reduced by the amount that is transferred 72302
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 72303
the Auto Emissions Test Fund (Fund 5BZ) under this division. 72304

(2) Notwithstanding section 183.02 of the Revised Code, on 72305
July 1, 2006, or as soon as possible thereafter, the Director of 72306
Budget and Management shall transfer \$15,200,000 cash from the 72307
Tobacco Master Settlement Agreement Fund (Fund 087) to the Auto 72308
Emissions Test Fund (Fund 5BZ) in the Environmental Protection 72309
Agency. Of the tobacco revenue that is credited to the Tobacco 72310
Master Settlement Agreement Fund (Fund 087) in fiscal year 2007, 72311
the share that is determined pursuant to section 183.02 of the 72312
Revised Code to be the amount transferred by the Director of 72313
Budget and Management from the Tobacco Master Settlement Agreement 72314
Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust 72315
Fund (Fund H87) shall be reduced by the amount that is transferred 72316
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 72317
the Auto Emissions Test Fund (Fund 5BZ) under this division. 72318

NPDES TRANSFER TO AGRICULTURE 72319

On or after the date on which the United States Environmental 72320
Protection Agency approves the state program submitted under 72321
division (A)(1) of section 903.08 of the Revised Code, and federal 72322
moneys are disbursed for this purpose, the Controlling Board shall 72323
transfer those funds from the Environmental Protection Agency to 72324
the Department of Agriculture. 72325

CASH TRANSFER FOR ENVIRONMENTAL PROTECTION FUND 72326

On July 1, 2005, or as soon as possible thereafter, the 72327
Director of Budget and Management may transfer \$1,000,000 in cash 72328
from the Central Support Indirect Fund (Fund 219) into the 72329
Environmental Protection Fund (Fund 5BC). 72330

On July 1, 2005, or as soon as possible thereafter, the 72331
Director of Budget and Management may transfer \$6,000,000 in cash 72332

from the Hazardous Waste Facility Management Fund (Fund 503) into 72333
the Environmental Protection Fund (Fund 5BC). 72334

On July 1, 2005, or as soon as possible thereafter, the 72335
Director of Budget and Management may transfer \$3,000,000 in cash 72336
from the Solid Waste Fund (Fund 4K3) into the Environmental 72337
Protection Fund (Fund 5BC). 72338

On July 1, 2005, or as soon as possible thereafter, the 72339
Director of Budget and Management may transfer \$1,000,000 in cash 72340
from the Hazardous Waste Cleanup Fund (Fund 505) into the 72341
Environmental Protection Fund (Fund 5BC). 72342

Section 206.30. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION 72343

General Revenue Fund				72344
GRF 172-321 Operating Expenses	\$	479,161	\$ 483,859	72345
TOTAL GRF General Revenue Fund	\$	479,161	\$ 483,859	72346
TOTAL ALL BUDGET FUND GROUPS	\$	479,161	\$ 483,859	72347

Section 206.33. ETH OHIO ETHICS COMMISSION 72349

General Revenue Fund				72350
GRF 146-321 Operating Expenses	\$	1,476,213	\$ 1,476,213	72351
TOTAL GRF General Revenue Fund	\$	1,476,213	\$ 1,476,213	72352
General Services Fund Group				72353
4M6 146-601 Operating Expenses	\$	502,543	\$ 432,543	72354
TOTAL GSF General Services				72355
Fund Group	\$	502,543	\$ 432,543	72356
TOTAL ALL BUDGET FUND GROUPS	\$	1,978,756	\$ 1,908,756	72357

Section 206.36. EXP OHIO EXPOSITIONS COMMISSION 72359

General Revenue Fund				72360
GRF 723-403 Junior Fair Subsidy	\$	400,000	\$ 400,000	72361
TOTAL GRF General Revenue Fund	\$	400,000	\$ 400,000	72362

State Special Revenue Fund Group				72363
4N2 723-602 Ohio State Fair	\$	520,000	\$ 520,000	72364
Harness Racing				
506 723-601 Operating Expenses	\$	13,643,315	\$ 13,643,315	72365
TOTAL SSR State Special Revenue				72366
Fund Group	\$	14,163,315	\$ 14,163,315	72367
TOTAL ALL BUDGET FUND GROUPS	\$	14,563,315	\$ 14,563,315	72368

Section 206.39. GOV OFFICE OF THE GOVERNOR 72370

General Revenue Fund				72371
GRF 040-321 Operating Expenses	\$	3,981,582	\$ 3,981,582	72372
GRF 040-403 Federal Relations	\$	422,760	\$ 422,760	72373
GRF 040-408 Office of Veterans'	\$	267,923	\$ 267,923	72374
Affairs				
TOTAL GRF General Revenue Fund	\$	4,672,265	\$ 4,672,265	72375
General Services Fund Group				72376
5AK 040-607 Federal Relations	\$	354,514	\$ 354,514	72377
TOTAL GSF General Services Fund	\$	354,514	\$ 354,514	72378
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	5,026,779	\$ 5,026,779	72379

APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR 72380

The Governor may expend a portion of the foregoing 72381
appropriation item 040-321, Operating Expenses, to hire or appoint 72382
legal counsel to be used in proceedings involving the Governor in 72383
the Governor's official capacity or the Governor's office only, 72384
without the approval of the Attorney General, notwithstanding 72385
sections 109.02 and 109.07 of the Revised Code. 72386

FEDERAL RELATIONS 72387

A portion of the foregoing appropriation items 040-403, 72388
Federal Relations, and 040-607, Federal Relations, may be used to 72389
support Ohio's membership in national or regional associations. 72390

The Office of the Governor may charge any state agency of the executive branch using an intrastate transfer voucher such amounts necessary to defray the costs incurred for the conduct of federal relations associated with issues that can be attributed to the agency. Amounts collected shall be deposited to the Office of the Governor Federal Relations Fund (Fund 5AK).

Section 206.42. DOH DEPARTMENT OF HEALTH				72397
General Revenue Fund				72398
GRF 440-407	Animal Borne Disease and Prevention	\$ 2,452,101	\$ 2,452,101	72399
GRF 440-412	Cancer Incidence Surveillance System	\$ 1,002,619	\$ 1,002,619	72400
GRF 440-413	Local Health Department Support	\$ 3,786,794	\$ 3,786,794	72401
GRF 440-416	Child and Family Health Services	\$ 9,047,874	\$ 9,047,874	72402
GRF 440-418	Immunizations	\$ 8,600,615	\$ 8,600,615	72403
GRF 440-444	AIDS Prevention and Treatment	\$ 7,158,127	\$ 7,158,127	72404
GRF 440-446	Infectious Disease Prevention	\$ 200,000	\$ 200,000	72405
GRF 440-451	Lab and Public Health Prevention Programs	\$ 6,085,250	\$ 6,085,250	72406
GRF 440-452	Child and Family Health Services Match	\$ 1,024,017	\$ 1,024,017	72407
GRF 440-453	Health Care Quality Assurance	\$ 10,253,728	\$ 10,253,728	72408
GRF 440-454	Local Environmental Health	\$ 889,752	\$ 889,752	72409
GRF 440-459	Help Me Grow	\$ 9,323,797	\$ 9,323,797	72410
GRF 440-461	Center for Vital and	\$ 3,629,535	\$ 3,629,535	72411

		Health Stats				
GRF	440-505	Medically Handicapped Children	\$	8,791,784	\$	8,791,784 72412
GRF	440-507	Targeted Health Care Services Over 21	\$	731,023	\$	731,023 72413
TOTAL GRF		General Revenue Fund	\$	72,977,016	\$	72,977,016 72414
		General Services Fund Group				72415
142	440-618	Agency Health Services	\$	2,461,915	\$	2,561,915 72416
211	440-613	Central Support	\$	26,584,707	\$	26,584,707 72417
		Indirect Costs				
473	440-622	Lab Operating Expenses	\$	4,154,045	\$	4,154,045 72418
683	440-633	Employee Assistance Program	\$	1,208,214	\$	1,208,214 72419
698	440-634	Nurse Aide Training	\$	170,000	\$	170,000 72420
TOTAL GSF		General Services Fund Group	\$	34,578,881	\$	34,678,881 72422
		Federal Special Revenue Fund Group				72423
320	440-601	Maternal Child Health Block Grant	\$	28,779,322	\$	29,025,635 72424
387	440-602	Preventive Health Block Grant	\$	7,755,005	\$	7,826,659 72425
389	440-604	Women, Infants, and Children	\$	219,920,083	\$	230,077,451 72426
391	440-606	Medicaid/Medicare	\$	24,211,198	\$	24,850,959 72427
392	440-618	Federal Public Health Programs	\$	126,678,202	\$	127,677,458 72428
TOTAL FED		Federal Special Revenue Fund Group	\$	407,343,810	\$	419,458,162 72430
		State Special Revenue Fund Group				72431
4D6	440-608	Genetics Services	\$	2,617,000	\$	2,617,000 72432
4F9	440-610	Sickle Cell Disease Control	\$	1,035,344	\$	1,035,344 72433

4G0	440-636	Heirloom Birth Certificate	\$	5,000	\$	5,000	72434
4G0	440-637	Birth Certificate Surcharge	\$	5,000	\$	5,000	72435
4L3	440-609	Non-Governmental Grants and Awards	\$	144,119	\$	144,119	72436
4T4	440-603	Child Highway Safety	\$	233,894	\$	233,894	72437
4V6	440-641	Save Our Sight	\$	1,767,994	\$	1,767,994	72438
470	440-618	Fee Supported Programs	\$	16,025,194	\$	16,025,194	72439
471	440-619	Certificate of Need	\$	581,572	\$	594,572	72440
477	440-627	Medically Handicapped Children Audit	\$	3,800,000	\$	3,693,016	72441
5BL	440-638	Healthy Ohioans	\$	5,000,000	\$	0	72442
5B5	440-616	Quality, Monitoring, and Inspection	\$	838,479	\$	838,479	72443
5CB	440-640	Poison Control Centers	\$	200,000	\$	200,000	72444
5C0	440-615	Alcohol Testing and Permit	\$	1,455,405	\$	1,455,405	72445
5D6	440-620	Second Chance Trust	\$	1,054,951	\$	1,054,951	72446
5G4	440-639	Adoption Services	\$	20,000	\$	20,000	72447
5L1	440-623	Nursing Facility Technical Assistance Program	\$	617,517	\$	617,517	72448
610	440-626	Radiation Emergency Response	\$	850,000	\$	850,000	72449
666	440-607	Medically Handicapped Children - County Assessments	\$	14,320,687	\$	14,320,687	72450
TOTAL SSR State Special Revenue							72451
Fund Group			\$	50,572,156	\$	45,478,172	72452
Holding Account Redistribution Fund Group							72453
R14	440-631	Vital Statistics	\$	70,000	\$	70,000	72454
R48	440-625	Refunds, Grants	\$	20,000	\$	20,000	72455

Reconciliation, and
Audit Settlements

TOTAL 090 Holding Account				72456
Redistribution Fund Group	\$	90,000	\$ 90,000	72457
TOTAL ALL BUDGET FUND GROUPS	\$	565,561,863	\$ 572,682,231	72458

Of the foregoing appropriation item 490-403, PASSPORT, up to 72459
\$200,000 in fiscal year 2006 shall be used for the request for 72460
proposal process, and for the contracting of and the evaluation of 72461
the PASSORT Program, as required under Section 206.66.66 of this 72462
act. 72463

Section 206.42.03. CHILD AND FAMILY HEALTH SERVICES 72464

Of the foregoing appropriation item 440-416, Child and Family 72465
Health Services, not more than \$1,700,000 in each fiscal year 72466
shall be used for women's health services. 72467

Of the foregoing appropriation item 440-416, Child and Family 72468
Health Services, not more than \$270,000 shall be used in each 72469
fiscal year for the OPTIONS dental care access program. 72470

Of the foregoing appropriation item 440-416, Child and Family 72471
Health Services, not more than \$900,000 in each fiscal year shall 72472
be used by federally qualified health centers and federally 72473
designated look-alikes to provide services to uninsured low-income 72474
persons. 72475

Of the foregoing appropriation item 440-416, Child and Family 72476
Health Services, not more than \$500,000 in each fiscal year shall 72477
be used for abstinence-only education. The Director of Health 72478
shall develop guidelines for the establishment of abstinence 72479
programs for teenagers with the purpose of decreasing unplanned 72480
pregnancies and abortion. The guidelines shall be developed 72481
pursuant to Title V of the "Social Security Act," 42 U.S.C. 510, 72482
and shall include, but are not limited to, advertising campaigns 72483

and direct training in schools and other locations. 72484

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. 72485
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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 to the Jewish Community Center in Youngstown, and \$2,500 in each fiscal year shall be provided to the Jewish Community Center in Canton. 72492
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Section 206.42.06. WOMEN'S HEALTH SERVICES 72501

None of the funds received through grants for women's health services under this section from the foregoing appropriation item 440-416, Child and Family Health Services, shall be used to provide abortion services. None of the funds received through these grants shall be used for counseling for or referrals for abortion, except in the case of a medical emergency. These funds shall be distributed by the Director of Health to programs that the Department of Health determines will provide services that are physically and financially separate from abortion-providing and abortion-promoting activities, and that do not include counseling for or referrals for abortion, other than in the case of medical emergency. 72502
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These women's health services include and are limited to the following: pelvic examinations and laboratory testing; breast examinations and patient education on breast cancer; screening for cervical cancer; screening and treatment for Sexually Transmitted Diseases (STDs) and HIV screening; voluntary choice of contraception, including abstinence and natural family planning; patient education and pre-pregnancy counseling on the dangers of smoking, alcohol, and drug use during pregnancy; education on sexual coercion and violence in relationships; and prenatal care or referral for prenatal care. These health care services shall be provided by licensed doctors, licensed nurses, licensed medical assistants, licensed counselors, and licensed social workers in a medical clinic setting.

The Director of Health shall adopt rules under Chapter 119. of the Revised Code specifying reasonable eligibility standards that must be met to receive the state funding and provide reasonable methods by which a grantee wishing to be eligible for federal funding may comply with these requirements for state funding without losing its eligibility for federal funding.

Each applicant for these funds shall provide sufficient assurance to the Director of Health of all of the following:

(A) The program shall not discriminate in the provision of services based on an individual's religion, race, national origin, handicapping condition, age, sex, number of pregnancies, or marital status;

(B) The program shall provide services without subjecting individuals to any coercion to accept services or to employ any particular methods of family planning;

(C) Acceptance of services shall be solely on a voluntary basis and may not be made a prerequisite to eligibility for, or receipt of, any other service, assistance from, or participation

in, any other program of the service provider;

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(D) The costs for services provided by the program, if any are charged, shall be based on the patient's ability to pay and priority in the provision of services shall be given to persons from low-income families.

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In distributing these grant funds, the Director of Health shall give priority to grant requests from local departments of health for women's health services to be provided directly by personnel of the local department of health. The Director of Health shall issue a single request for proposals for all grants under this set-aside. The Director of Health shall send a notification of this request for proposals to every local department of health in this state and shall place a notification on the department's web site. The Director shall allow at least 30 days after issuing this notification before closing the period to receive applications.

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After the closing date for receiving grant applications, the Director of Health shall first consider grant applications from local departments of health that apply for grants for women's health services to be provided directly by personnel of the local department of health. Local departments of health that apply for grants for women's health services to be provided directly by personnel of the local department of health need not provide all the listed women's health services in order to qualify for a grant. However, in prioritizing awards among local departments of health that qualify for funding under this paragraph, the Director of Health may consider, among other reasonable factors, the comprehensiveness of the women's health services to be offered, provided that no local department of health shall be discriminated against in the process of awarding these grant funds because the applicant does not provide contraception.

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If funds remain after awarding grants to all local departments of health that qualify for the priority, the Director of Health may make grants to other applicants. Awards to other applicants may be made to those applicants that will offer all eight of the listed women's health services or that will offer all of the services except contraception. No applicant shall be discriminated against in the process of awarding these grant funds because the applicant does not provide contraception.

Section 206.42.09. HIV/AIDS PREVENTION/TREATMENT 72584

Of the foregoing appropriation item 440-444, AIDS Prevention and Treatment, not more than \$6.7 million per fiscal year shall be used to assist persons with HIV/AIDS in acquiring HIV-related medications.

INFECTIOUS DISEASE PREVENTION 72589

The foregoing appropriation item 440-446, Infectious Disease Prevention, shall be used for the purchase of drugs for sexually transmitted diseases.

HELP ME GROW 72593

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 72606
with the Department of Education, Department of Mental Retardation 72607
and Developmental Disabilities, Department of Job and Family 72608
Services, and Department of Mental Health to ensure that all early 72609
childhood programs and initiatives are coordinated and school 72610
linked. 72611

TARGETED HEALTH CARE SERVICES OVER 21 72612

In each fiscal year, appropriation item 440-507, Targeted 72613
Health Care Services Over 21, shall be used to administer the 72614
cystic fibrosis program and implement the Hemophilia Insurance 72615
Premium Payment Program. 72616

MATERNAL CHILD HEALTH BLOCK GRANT 72617

Of the foregoing appropriation item 440-601, Maternal Child 72618
Health Block Grant (Fund 320), \$2,091,299 shall be used in each 72619
fiscal year for the purposes of abstinence-only education. The 72620
Director of Health shall develop guidelines for the establishment 72621
of abstinence programs for teenagers with the purpose of 72622
decreasing unplanned pregnancies and abortion. The guidelines 72623
shall be developed under Title V of the "Social Security Act," 42 72624
U.S.C. 510, and shall include, but are not limited to, advertising 72625
campaigns and direct training in schools and other locations. 72626

GENETICS SERVICES 72627

The foregoing appropriation item 440-608, Genetics Services 72628
(Fund 4D6), shall be used by the Department of Health to 72629
administer programs authorized by sections 3701.501 and 3701.502 72630
of the Revised Code. None of these funds shall be used to counsel 72631
or refer for abortion, except in the case of a medical emergency. 72632

SAFETY AND QUALITY OF CARE STANDARDS 72633

The Department of Health may use Fund 471, Certificate of 72634
Need, for administering sections 3702.11 to 3702.20 and 3702.30 of 72635

the Revised Code in each fiscal year. 72636

MEDICALLY HANDICAPPED CHILDREN AUDIT 72637

The Medically Handicapped Children Audit Fund (Fund 477) 72638
shall receive revenue from audits of hospitals and recoveries from 72639
third-party payers. Moneys may be expended for payment of audit 72640
settlements and for costs directly related to obtaining recoveries 72641
from third-party payers and for encouraging Medically Handicapped 72642
Children's Program recipients to apply for third-party benefits. 72643
Moneys also may be expended for payments for diagnostic and 72644
treatment services on behalf of medically handicapped children, as 72645
defined in division (A) of section 3701.022 of the Revised Code, 72646
and Ohio residents who are twenty-one or more years of age and who 72647
are suffering from cystic fibrosis or hemophilia. Moneys may also 72648
be expended for administrative expenses incurred in operating the 72649
Medically Handicapped Children's Program. 72650

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND 72651
PERMIT FUND 72652

The Director of Budget and Management, pursuant to a plan 72653
submitted by the Department of Health, or as otherwise determined 72654
by the Director of Budget and Management, shall set a schedule to 72655
transfer cash from the Liquor Control Fund (Fund 043) to the 72656
Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating 72657
needs of the Alcohol Testing and Permit program. 72658

The Director of Budget and Management shall transfer to the 72659
Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control 72660
Fund (Fund 043) created in section 4301.12 of the Revised Code 72661
such amounts at such times as determined by the transfer schedule. 72662

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS 72663

The foregoing appropriation item 440-607, Medically 72664
Handicapped Children - County Assessments (Fund 666), shall be 72665

used to make payments under division (E) of section 3701.023 of
the Revised Code. 72666
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Section 206.42.12. MEDICALLY HANDICAPPED CHILDREN - FUTURE 72668
FUNDING 72669

(A) There is hereby created the Legislative Committee on the 72670
Future Funding of the Bureau for Children with Medical Handicaps. 72671
The Speaker of the House of Representatives shall appoint three 72672
members of the House of Representatives, not more than two of whom 72673
shall belong to the same political party as the Speaker. The 72674
President of the Senate shall appoint three members of the Senate, 72675
not more than two of whom shall belong to the same political party 72676
as the President. The Speaker of the House of Representatives and 72677
the President of the Senate shall each appoint one member of the 72678
general public who suffers from a disease or disorder covered by 72679
the Program for Medically Handicapped Children (otherwise known as 72680
the Bureau for Children with Medical Handicaps) in the Ohio 72681
Department of Health. The Governor shall appoint two members of 72682
the general public who suffer from a disease or disorder covered 72683
by the Program. The following also shall serve on the Committee: 72684

(1) The Director of Health, or the Director's designee; 72685

(2) The Director of Budget and Management, or the Director's 72686
designee; 72687

(3) The Superintendent of Insurance, or the Superintendent's 72688
designee; 72689

(4) The Director of Job and Family Services, or the 72690
Director's designee; 72691

(5) One person designated by the County Commissioners 72692
Association of Ohio; 72693

(6) One person designated by the Ohio Children's Hospital 72694
Association; 72695

(7) One person designated by the Ohio Association of Health Plans;	72696 72697
(8) One person designated by the American Academy of Pediatrics.	72698 72699
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.	72700 72701 72702
(B) Members of the Committee shall receive no compensation.	72703
(C) The Committee shall do all of the following:	72704
(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;	72705 72706 72707
(2) Review all existing statutes and rules in Ohio pertaining to the Program;	72708 72709
(3) Review payment strategies in other states that facilitate adequate care for children with chronic conditions and support their families;	72710 72711 72712
(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;	72713 72714 72715 72716 72717
(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;	72718 72719 72720 72721
(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	72722 72723 72724 72725

include an analysis of the current system of services covered by 72726
the Program and may include determinations and recommendations 72727
regarding how the state can best address the current and future 72728
needs of patients served by the Program. On submission of the 72729
report, the Committee shall cease to exist. 72730

Section 206.42.13. REVISION OF RULES GOVERNING PROGRAM FOR 72731
MEDICALLY HANDICAPPED CHILDREN 72732

Not later than December 1, 2005, the Public Health Council 72733
shall revise rule 3701-43-16 of the Administrative Code regarding 72734
financial eligibility for payment for treatment under the Program 72735
for Medically Handicapped Children. As part of the revision, the 72736
Public Health Council shall return the financial eligibility 72737
levels for fiscal years 2006 and 2007 to the levels in effect 72738
prior to October 13, 2003. 72739

Section 206.42.16. NURSING FACILITY TECHNICAL ASSISTANCE 72740
PROGRAM 72741

The Director of Budget and Management shall transfer, by 72742
intrastate transfer voucher, each fiscal year, cash from Fund 4E3, 72743
Resident Protection Fund, in the Ohio Department of Job and Family 72744
Services, to Fund 5L1, Nursing Facility Technical Assistance 72745
Program Fund, in the Ohio Department of Health, to be used under 72746
section 3721.026 of the Revised Code. The transfers shall equal 72747
\$183,843 in fiscal year 2006 and \$617,517 in fiscal year 2007. 72748

Section 206.42.19. TRANSFER FROM STATE FIRE MARSHAL'S FUND 72749
(FUND 546) TO THE POISON CONTROL FUND (FUND XXX) IN THE DEPARTMENT 72750
OF HEALTH 72751

Notwithstanding section 3737.71 of the Revised Code, on July 72752
1, 2005, or as soon as possible thereafter, the Director of Budget 72753
and Management shall transfer \$200,000 cash from the State Fire 72754

Marshal's Fund (Fund 546) in the Department of Commerce to the 72755
 Poison Control Fund (Fund XXX) in the Department of Health, which 72756
 is hereby created. Notwithstanding section 3737.71 of the Revised 72757
 Code, on July 1, 2006, or as soon as possible thereafter, the 72758
 Director of Budget and Management shall transfer \$200,000 cash 72759
 from the State Fire Marshal's Fund (Fund 546) in the Department of 72760
 Commerce to the Poison Control Fund (Fund XXX) in the Department 72761
 of Health. 72762

POISON CONTROL CENTERS 72763

Of the foregoing appropriation item 440-XXX, Poison Control 72764
 Centers, in each fiscal year, the poison control centers in the 72765
 municipal corporations of Cleveland, Cincinnati, Columbus, and 72766
 Dayton shall each be awarded a grant of \$50,000. 72767

Section 206.45. HEF HIGHER EDUCATIONAL FACILITY COMMISSION 72768

Agency Fund Group				72769
461 372-601 Operating Expenses	\$	16,819	\$ 16,819	72770
TOTAL AGY Agency Fund Group	\$	16,819	\$ 16,819	72771
TOTAL ALL BUDGET FUND GROUPS	\$	16,819	\$ 16,819	72772

Section 206.48. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS 72774

General Revenue Fund				72775
GRF 148-100 Personal Services	\$	145,880	\$ 145,880	72776
GRF 148-200 Maintenance	\$	35,901	\$ 35,901	72777
TOTAL GRF General Revenue Fund	\$	181,781	\$ 181,781	72778
General Services Fund Group				72779
601 148-602 Gifts and	\$	5,000	\$ 5,000	72780
Miscellaneous				
TOTAL GSF General Services				72781
Fund Group	\$	5,000	\$ 5,000	72782
TOTAL ALL BUDGET FUND GROUPS	\$	186,781	\$ 186,781	72783

Section 206.51. OHS OHIO HISTORICAL SOCIETY				72785
General Revenue Fund				72786
GRF 360-501	Operating Subsidy	\$ 3,288,274	\$ 3,288,274	72787
GRF 360-502	Site Operations	\$ 8,138,725	\$ 8,138,725	72788
GRF 360-504	Ohio Preservation	\$ 281,041	\$ 281,041	72789
Office				
GRF 360-505	Afro-American Museum	\$ 754,884	\$ 754,884	72790
GRF 360-506	Hayes Presidential	\$ 509,231	\$ 509,231	72791
Center				
GRF 360-508	Historical Grants	\$ 435,000	\$ 235,000	72792
TOTAL GRF General Revenue Fund				72793
TOTAL ALL BUDGET FUND GROUPS				72794
SUBSIDY APPROPRIATION				72795
Upon approval by the Director of Budget and Management, the				72796
foregoing appropriation items shall be released to the Ohio				72797
Historical Society in quarterly amounts that in total do not				72798
exceed the annual appropriations. The funds and fiscal records of				72799
the society for fiscal years 2006 and 2007 shall be examined by				72800
independent certified public accountants approved by the Auditor				72801
of State, and a copy of the audited financial statements shall be				72802
filed with the Office of Budget and Management. The society shall				72803
prepare and submit to the Office of Budget and Management the				72804
following:				72805
(A) An estimated operating budget for each fiscal year of the				72806
biennium. The operating budget shall be submitted at or near the				72807
beginning of each calendar year.				72808
(B) Financial reports, indicating actual receipts and				72809
expenditures for the fiscal year to date. These reports shall be				72810
filed at least semiannually during the fiscal biennium.				72811
The foregoing appropriations shall be considered to be the				72812

contractual consideration provided by the state to support the 72813
state's offer to contract with the Ohio Historical Society under 72814
section 149.30 of the Revised Code. 72815

HAYES PRESIDENTIAL CENTER 72816

If a United States government agency, including, but not 72817
limited to, the National Park Service, chooses to take over the 72818
operations or maintenance of the Hayes Presidential Center, in 72819
whole or in part, the Ohio Historical Society shall make 72820
arrangements with the National Park Service or other United States 72821
government agency for the efficient transfer of operations or 72822
maintenance. 72823

HISTORICAL GRANTS 72824

Of the foregoing appropriation item 360-508, Historical 72825
Grants, \$100,000 in each fiscal year shall be distributed to the 72826
Western Reserve Historical Society in Cleveland. 72827

HISTORICAL GRANTS 72828

Of the foregoing appropriation item 360-508, Historical 72829
Grants, \$100,000 in fiscal year 2006 shall be distributed to the 72830
Great Lakes Historical Society in Vermilion. 72831

HISTORICAL GRANTS 72832

Of the foregoing appropriation item 360-508, Historical 72833
Grants, \$75,000 in each fiscal year shall be distributed to the 72834
Hebrew Union College in Cincinnati for the Center for Holocaust 72835
and Humanity Education, and \$25,000 in each fiscal year shall be 72836
distributed to the Cincinnati Museum Center. 72837

HISTORICAL GRANTS 72838

Of the foregoing appropriation item 360-508, Historical 72839
Grants, \$100,000 in fiscal year 2006 shall be distributed to the 72840
Harbor Heritage Society Steamship Mather in Cleveland. 72841

HISTORICAL GRANTS				72842	
Of the foregoing appropriation item 360-508, Historical				72843	
Grants, \$35,000 in each fiscal year shall be distributed to the				72844	
Castle Farm project in the City of Mason.				72845	
Section 206.54. REP OHIO HOUSE OF REPRESENTATIVES				72846	
General Revenue Fund				72847	
GRF 025-321 Operating Expenses	\$	20,169,168	\$	20,370,859	72848
TOTAL GRF General Revenue Fund	\$	20,169,168	\$	20,370,859	72849
General Services Fund Group				72850	
103 025-601 House Reimbursement	\$	1,419,469	\$	1,419,469	72851
4A4 025-602 Miscellaneous Sales	\$	37,474	\$	37,474	72852
TOTAL GSF General Services				72853	
Fund Group	\$	1,456,943	\$	1,456,943	72854
TOTAL ALL BUDGET FUND GROUPS	\$	21,626,111	\$	21,827,802	72855
OPERATING EXPENSES				72856	
On July 1, 2005, or as soon as possible thereafter, the Chief				72857	
Administrative Officer of the House of Representatives shall				72858	
certify to the Director of Budget and Management the total fiscal				72859	
year 2005 unencumbered appropriations in appropriation item				72860	
025-321, Operating Expenses. The Chief Administrative Officer may				72861	
direct the Director of Budget and Management to transfer an amount				72862	
not to exceed the total fiscal year 2005 unencumbered				72863	
appropriations to fiscal year 2006 for use within appropriation				72864	
item 025-321, Operating Expenses. Additional appropriation				72865	
authority equal to the amount certified by the Chief				72866	
Administrative Officer is hereby appropriated to appropriation				72867	
item 025-321, Operating Expenses, in fiscal year 2006.				72868	
On July 1, 2006, or as soon as possible thereafter, the Chief				72869	
Administrative Officer of the House of Representatives shall				72870	
certify to the Director of Budget and Management the total fiscal				72871	

year 2006 unencumbered appropriations in appropriation item 72872
025-321, Operating Expenses. The Chief Administrative Officer may 72873
direct the Director of Budget and Management to transfer an amount 72874
not to exceed the total fiscal year 2006 unencumbered 72875
appropriations to fiscal year 2007 for use within appropriation 72876
item 025-321, Operating Expenses. Additional appropriation 72877
authority equal to the amount certified by the Chief 72878
Administrative Officer is hereby appropriated to appropriation 72879
item 025-321, Operating Expenses, in fiscal year 2007. 72880

Section 206.57. HFA OHIO HOUSING FINANCE AGENCY

72881

General Services Fund Group

72882

5AZ 997-601 Housing Finance Agency \$ 8,100,000 \$ 8,100,000 72883

Personal Services

TOTAL GSF General Services Fund \$ 8,100,000 \$ 8,100,000 72884

Group

TOTAL ALL BUDGET FUND GROUPS \$ 8,100,000 \$ 8,100,000 72885

Section 206.60. IGO OFFICE OF THE INSPECTOR GENERAL

72887

General Revenue Fund

72888

GRF 965-321 Operating Expenses \$ 800,868 \$ 829,085 72889

TOTAL GRF General Revenue Fund \$ 800,868 \$ 829,085 72890

General Services Fund Group

72891

4Z3 965-602 Special Investigations \$ 100,000 \$ 100,000 72892

TOTAL GSF General Services Fund \$ 100,000 \$ 100,000 72893

Group

TOTAL ALL BUDGET FUND GROUPS \$ 900,868 \$ 929,085 72894

SPECIAL INVESTIGATIONS

72895

Of the foregoing appropriation item 965-602, Special

72896

Investigations, up to \$100,000 in each fiscal year may be used for 72897

investigative costs, pursuant to section 121.481 of the Revised 72898

Code.				72899
Section 206.63. INS DEPARTMENT OF INSURANCE				72900
Federal Special Revenue Fund Group				72901
3U5 820-602 OSHIIP Operating Grant	\$	1,080,000	\$ 1,080,000	72902
TOTAL FED Federal Special				72903
Revenue Fund Group	\$	1,080,000	\$ 1,080,000	72904
State Special Revenue Fund Group				72905
554 820-601 Operating Expenses -	\$	564,754	\$ 571,772	72906
OSHIIP				
554 820-606 Operating Expenses	\$	22,654,232	\$ 22,832,214	72907
555 820-605 Examination	\$	7,639,581	\$ 7,639,581	72908
TOTAL SSR State Special Revenue				72909
Fund Group	\$	30,858,567	\$ 31,043,567	72910
TOTAL ALL BUDGET FUND GROUPS	\$	31,938,567	\$ 32,123,567	72911
MARKET CONDUCT EXAMINATION				72912
When conducting a market conduct examination of any insurer				72913
doing business in this state, the Superintendent of Insurance may				72914
assess the costs of the examination against the insurer. The				72915
superintendent may enter into consent agreements to impose				72916
administrative assessments or fines for conduct discovered that				72917
may be violations of statutes or rules administered by the				72918
superintendent. All costs, assessments, or fines collected shall				72919
be deposited to the credit of the Department of Insurance				72920
Operating Fund (Fund 554).				72921
EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES				72922
The Director of Budget and Management, at the request of the				72923
Superintendent of Insurance, may transfer funds from the				72924
Department of Insurance Operating Fund (Fund 554), created by				72925
section 3901.021 of the Revised Code, to the Superintendent's				72926
Examination Fund (Fund 555), created by section 3901.071 of the				72927

Revised Code, only for expenses incurred in examining domestic fraternal benefit societies as required by section 3921.28 of the Revised Code.				72928	
				72929	
				72930	
Section 206.66. JFS DEPARTMENT OF JOB AND FAMILY SERVICES				72931	
General Revenue Fund				72932	
GRF 600-321 Support Services				72933	
State	\$	62,797,907	\$	60,065,397	72934
Federal	\$	8,114,493	\$	8,454,541	72935
Support Services Total	\$	70,912,400	\$	68,519,938	72936
GRF 600-410 TANF State	\$	272,619,061	\$	272,619,061	72937
GRF 600-413 Child Care	\$	84,120,596	\$	84,120,596	72938
Match/Maintenance of Effort					
GRF 600-416 Computer Projects				72939	
State	\$	114,516,710	\$	117,226,021	72940
Federal	\$	37,579,198	\$	34,255,465	72941
Computer Projects	\$	152,095,908	\$	151,481,486	72942
Total					
GRF 600-420 Child Support Administration	\$	5,091,446	\$	5,091,446	72943
GRF 600-421 Office of Family Stability	\$	4,864,932	\$	4,864,932	72944
GRF 600-423 Office of Children and Families	\$	5,408,020	\$	5,431,690	72945
GRF 600-442 Public Assistance Reconciliation	\$	30,000,000	\$	30,000,000	72946
GRF 600-502 Child Support Match	\$	16,814,103	\$	16,814,103	72947
GRF 600-511 Disability Financial Assistance	\$	22,839,371	\$	22,839,371	72948
GRF 600-512 Non-TANF Disaster Assistance	\$	1,000,000	\$	1,000,000	72949

GRF 600-521	Entitlement	\$	151,206,401	\$	151,206,401	72950
	Administration - Local					
GRF 600-523	Children and Families	\$	69,438,543	\$	69,438,543	72951
	Subsidy					
GRF 600-528	Adoption Services					72952
	State	\$	33,698,298	\$	35,516,130	72953
	Federal	\$	40,331,807	\$	43,022,485	72954
	Adoption Services	\$	74,030,105	\$	78,538,615	72955
	Total					
TOTAL GRF	General Revenue Fund					72956
	State	\$	874,415,388	\$	876,233,691	72957
	Federal	\$	86,025,498	\$	85,732,491	72958
	GRF Total	\$	960,440,886	\$	961,966,182	72959
	General Services Fund Group					72960
4A8 600-658	Child Support	\$	26,680,794	\$	26,680,794	72961
	Collections					
4R4 600-665	BCII Services/Fees	\$	36,974	\$	36,974	72962
5C9 600-671	Medicaid Program	\$	73,015,021	\$	63,947,536	72963
	Support					
5N1 600-677	County Technologies	\$	1,000,000	\$	1,000,000	72964
613 600-645	Training Activities	\$	135,000	\$	135,000	72965
TOTAL GSF	General Services					72966
Fund Group		\$	100,867,789	\$	91,800,304	72967
	Federal Special Revenue Fund Group					72968
3AW 600-675	Faith Based	\$	750,000	\$	750,000	72969
	Initiatives					
3A2 600-641	Emergency Food	\$	2,600,000	\$	2,800,000	72970
	Distribution					
3D3 600-648	Children's Trust Fund	\$	2,040,524	\$	2,040,524	72971
	Federal					
3F0 600-623	Health Care Federal	\$	592,984,408	\$	729,752,692	72972
3F0 600-650	Hospital Care	\$	343,239,047	\$	343,239,047	72973

		Assurance Match				
3G5	600-655	Interagency	\$ 1,364,802,369	\$ 1,426,954,440		72974
		Reimbursement				
3H7	600-617	Child Care Federal	\$ 208,000,000	\$ 208,000,000		72975
3N0	600-628	IV-E Foster Care	\$ 153,963,142	\$ 153,963,142		72976
		Maintenance				
3S5	600-622	Child Support Projects	\$ 534,050	\$ 534,050		72977
3V0	600-688	Workforce Investment	\$ 208,322,037	\$ 208,097,948		72978
		Act				
3V4	600-678	Federal Unemployment	\$ 153,435,545	\$ 157,202,750		72979
		Programs				
3V4	600-679	Unemployment	\$ 3,829,430	\$ 3,800,573		72980
		Compensation Review				
		Commission - Federal				
3V6	600-689	TANF Block Grant	\$ 756,604,142	\$ 781,983,200		72981
3W3	600-659	TANF/Title XX Transfer	\$ 8,000,000	\$ 5,400,000		72982
327	600-606	Child Welfare	\$ 33,160,190	\$ 33,090,786		72983
331	600-686	Federal Operating	\$ 43,966,134	\$ 44,929,546		72984
384	600-610	Food Stamps and State	\$ 188,238,706	\$ 181,250,799		72985
		Administration				
385	600-614	Refugee Services	\$ 5,683,829	\$ 5,742,439		72986
395	600-616	Special	\$ 4,567,112	\$ 4,564,877		72987
		Activities/Child and				
		Family Services				
396	600-620	Social Services Block	\$ 120,993,012	\$ 121,004,222		72988
		Grant				
397	600-626	Child Support	\$ 287,468,576	\$ 287,468,576		72989
398	600-627	Adoption Maintenance/	\$ 314,639,519	\$ 314,639,519		72990
		Administration				
TOTAL FED		Federal Special Revenue				72991
Fund Group			\$ 4,797,821,772	\$ 5,017,209,130		72992
State Special Revenue Fund Group						72993
198	600-647	Children's Trust Fund	\$ 6,788,522	\$ 6,788,522		72994

4A9	600-607	Unemployment Compensation Administration Fund	\$	10,811,527	\$	10,811,527	72995
4A9	600-694	Unemployment Compensation Review Commission	\$	3,188,473	\$	3,188,473	72996
4E3	600-605	Nursing Home Assessments	\$	4,759,914	\$	4,759,914	72997
4E7	600-604	Child and Family Services Collections	\$	300,000	\$	300,000	72998
4F1	600-609	Foundation Grants/Child and Family Services	\$	61,420	\$	61,420	72999
4J5	600-613	Nursing Facility Bed Assessments	\$	34,613,984	\$	34,613,984	73000
4J5	600-618	Residential State Supplement Payments	\$	15,700,000	\$	15,700,000	73001
4K1	600-621	ICF/MR Bed Assessments	\$	20,074,255	\$	20,064,131	73002
4R3	600-687	Banking Fees	\$	800,000	\$	800,000	73003
4Z1	600-625	HealthCare Compliance	\$	10,000,000	\$	10,000,000	73004
5AA	600-673	Ohio's Best Rx Administration	\$	5,000,000	\$	5,000,000	73005
5BE	600-693	Child Support Operating	\$	5,000,000	\$	5,000,000	73006
5BG	600-653	Managed Care Assessment	\$	18,795,483	\$	99,410,121	73007
5F2	600-667	Building Consolidation	\$	250,000	\$	250,000	73008
5F3	600-668	Building Consolidation	\$	1,000,000	\$	1,000,000	73009
5P5	600-692	Health Care Services	\$	828,587,776	\$	538,301,761	73010
5Q9	600-619	Supplemental Inpatient Hospital Payments	\$	56,125,998	\$	56,125,998	73011
5R2	600-608	Medicaid-Nursing Facilities	\$	144,829,224	\$	148,314,982	73012

5S3 600-629	MR/DD Medicaid	\$	1,620,960	\$	1,620,960	73013
	Administration and					
	Oversight					
5U3 600-654	Health Care Services	\$	10,115,870	\$	15,474,709	73014
	Administration					
5U6 600-663	Children and Family	\$	4,929,717	\$	4,929,717	73015
	Support					
5Z9 600-672	TANF Quality Control	\$	647,409	\$	688,421	73016
	Reinvestments					
651 600-649	Hospital Care	\$	231,893,404	\$	231,893,404	73017
	Assurance Program Fund					
TOTAL SSR State Special Revenue						73018
Fund Group		\$	1,415,893,936	\$	1,215,098,044	73019
Agency Fund Group						73020
192 600-646	Support Intercept -	\$	110,000,000	\$	110,000,000	73021
	Federal					
5B6 600-601	Food Stamp Intercept	\$	2,000,000	\$	2,000,000	73022
583 600-642	Support Intercept -	\$	16,000,000	\$	16,000,000	73023
	State					
TOTAL AGY Agency Fund Group		\$	128,000,000	\$	128,000,000	73024
Holding Account Redistribution Fund Group						73025
R12 600-643	Refunds and Audit	\$	3,600,000	\$	3,600,000	73026
	Settlements					
R13 600-644	Forgery Collections	\$	10,000	\$	10,000	73027
TOTAL 090 Holding Account		\$	3,610,000	\$	3,610,000	73028
Redistribution Fund Group						
TOTAL ALL BUDGET FUND GROUPS		\$	7,406,634,383	\$	7,417,683,660	73029

Section 206.66.03. APPROPRIATION ITEM RESTRUCTURING 73031

(A) If the Directors of Job and Family Services and Budget 73032
and Management agree, the Director of Budget and Management may, 73033
in fiscal years 2006 and 2007, reduce appropriations in 73034

appropriation items 600-321, Support Services, and 600-416, 73035
Computer Projects, by amounts equal to the federal share in each 73036
appropriation item. The total amount by which these appropriation 73037
items are reduced in accordance with this division is hereby 73038
appropriated to appropriation item 600-651, Federal General 73039
Operating (Fund 3AX). 73040

(B) The Department of Job and Family Services may submit to 73041
the Office of Budget and Management a plan to realign 73042
appropriation items 600-321, Support Services, and 600-416, 73043
Computer Projects. The plan may include a request for the Director 73044
of Budget and Management to transfer appropriations from 73045
appropriation items 600-321, Support Services, and 600-416, 73046
Computer Projects, to any other General Revenue Fund appropriation 73047
items in Section 312.03 of this act. If the plan is approved by 73048
the Office of Budget and Management, the Director of Budget and 73049
Management shall transfer appropriations as requested in the plan. 73050
Dollars spent pursuant to appropriations transferred in accordance 73051
with this division shall be for the same purposes for which the 73052
original appropriations were made. 73053

(C) In fiscal year 2007, the Department of Job and Family 73054
Services, with the approval of the Office of Budget and 73055
Management, shall utilize a method for determining the payments 73056
from applicable appropriation items into the Support Services 73057
State Operating Fund (Fund 230). The method shall contain 73058
characteristics of administrative ease and uniform application. 73059
Payments to the Support Services State Operating Fund (Fund 230) 73060
shall be made by intrastate transfer voucher. Amounts transferred 73061
in accordance with this division are hereby appropriated to 73062
appropriation item 600-661, Support Services State Operating (Fund 73063
230). 73064

Section 206.66.06. GOVERNOR'S OFFICE OF FAITH-BASED AND 73065

COMMUNITY INITIATIVES	73066
Of the foregoing appropriation item 600-321, Support	73067
Services, up to \$312,500 per fiscal year may be used to support	73068
the activities of the Governor's Office of Faith-Based and	73069
Community Initiatives.	73070
Section 206.66.09. TANF OHIO WORKS FIRST CASH ASSISTANCE	73071
PAYMENTS	73072
The Department of Job and Family Services shall use a portion	73073
of the moneys appropriated for the TANF program in appropriation	73074
items 600-410, TANF State; 600-658, Child Support Collections; and	73075
600-689, TANF Block Grant, to increase the cash assistance	73076
provided to recipients of benefits under the TANF Ohio Works First	73077
program by up to 10 per cent as compared to the cash assistance	73078
provided prior to July 1, 2005. The increased TANF cash assistance	73079
benefit shall be effective October 1, 2005.	73080
Section 206.66.12. OHIO'S BEST RX START-UP COSTS	73081
An amount equal to the remaining balance in appropriation	73082
item 600-440, Ohio's Best Rx Start-Up Costs, from fiscal year 2005	73083
is hereby appropriated for fiscal year 2006 into appropriation	73084
item 600-440, Ohio's Best Rx Start-Up Costs. An amount equal to	73085
the remaining unencumbered balance in appropriation item 600-440,	73086
Ohio's Best Rx Start-Up Costs, from fiscal year 2006 is hereby	73087
appropriated for fiscal year 2007 into appropriation item 600-440,	73088
Ohio's Best Rx Start-up Costs. The appropriation item 600-440,	73089
Ohio's Best Rx Start-Up Costs, shall be used by the Department of	73090
Job and Family Services to pay for the administrative and	73091
operational expenses for the Ohio's Best Rx Program in accordance	73092
with Chapter 5110. of the Revised Code, including costs associated	73093
with the duties assigned by the Department to the Ohio's Best Rx	73094
Program Administrator and for making payments to participating	73095

terminal distributors until sufficient cash exists to make 73096
payments from the accounts created in sections 5110.32 and 5110.33 73097
of the Revised Code. Of appropriation item 600-440, Ohio's Best Rx 73098
Start-Up Costs, not more than \$750,000 per fiscal year may be used 73099
by the department for administrative and operational costs, 73100
excluding outreach, that are not associated with the Ohio's Best 73101
Rx Program Administrator or the payments to participating terminal 73102
distributors. 73103

If the Director of Job and Family Services estimates that the 73104
appropriation is insufficient to fully cover start-up costs, the 73105
Director shall, in consultation with the Director of Budget and 73106
Management, submit a letter to the Governor, President of the 73107
Senate, Speaker of the House of Representatives, and the minority 73108
leaders of the Senate and House of Representatives. The letter 73109
shall declare the additional appropriation estimated to be needed 73110
and shall show a breakdown of how the additional appropriation 73111
will be used. The Director of Job and Family Services shall obtain 73112
the approval of the Controlling Board for any supplemental 73113
appropriation, if required. The amount approved by the Controlling 73114
Board is hereby appropriated. The use of state funds for program 73115
costs as provided in this section shall in no way obligate the 73116
state to fund further program costs, as the program is a discount 73117
program, not an entitlement program. 73118

OHIO'S BEST RX ADMINISTRATION 73119

The foregoing appropriation item 600-673, Ohio's Best Rx 73120
Administration, shall be used on an ongoing basis to cover 73121
expenses associated with the Ohio's Best Rx Program defined in 73122
section 5110.33 of the Revised Code. If receipts to the fund 73123
exceed the appropriated amount, the Director of Job and Family 73124
Services may request that the Director of Budget and Management 73125
increase the appropriation of this fund. Upon approval from the 73126
Director of Budget and Management, the additional amounts are 73127

hereby appropriated. 73128

Section 206.66.15. PUBLIC ASSISTANCE RECONCILIATION 73129

The Director of Job and Family Services may transfer, by 73130
intrastate transfer voucher, from GRF appropriation item 600-442, 73131
Public Assistance Reconciliation, up to \$30,000,000 in fiscal year 73132
2006 and up to \$30,000,000 in fiscal year 2007, to the Public 73133
Assistance Reconciliation Fund (Fund 5AX), to be used by the 73134
Department of Job and Family Services to reimburse Ohio's federal 73135
TANF block grant according to the process agreed to by the 73136
Department and the federal government. Such amounts are hereby 73137
appropriated. 73138

Section 206.66.21. TANF TRANSFERS 73139

(A) Notwithstanding any provision of law to the contrary, 73140
through June 30, 2007, if the Director of Budget and Management 73141
determines that the estimated ending fund balance of the General 73142
Revenue Fund will be greater than the amounts assumed in this act 73143
for either fiscal year, the director may transfer the excess 73144
balance, up to a total of \$96,000,000 to Fund 5AX, Public 73145
Assistance Reconciliation Fund, to pay the state's outstanding 73146
TANF liability to the federal government. Upon transfer, these 73147
amounts are hereby appropriated. This division does not apply to 73148
division (A) of Section 312.09, Budget Stabilization Fund 73149
Transfers, of this act. 73150

(B) In executing division (A) of this section and division 73151
(A) of Section 312.09, Budget Stabilization Fund Transfers, it is 73152
intended that these divisions be applied and construed so that 73153
both of the transfers authorized under these divisions may be made 73154
through June 30, 2007. 73155

Section 206.66.27. FISCAL YEAR 2006 AND FISCAL YEAR 2007 73156

MEDICAID REIMBURSEMENT SYSTEM FOR NURSING FACILITIES	73157
(A) As used in this section:	73158
"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.	73159 73160 73161 73162
"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.	73163 73164
"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.	73165 73166 73167 73168
(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, less any amount of that rate that reflects reimbursement to the nursing facility for the franchise permit fee that the nursing facility pays under section 3721.53 of the Revised Code.	73169 73170 73171 73172 73173 73174 73175 73176 73177 73178
(C) If a nursing facility undergoes a change of provider during fiscal year 2006 or 2007, the nursing facility shall be paid, for nursing facility services the nursing facility provides during the period beginning on the effective date of the change of provider and ending June 30, 2007, the rate paid to the previous provider for nursing facility services that the previous provider provided on the day immediately before the effective date of the change of provider. However, if the effective date of the change	73179 73180 73181 73182 73183 73184 73185 73186

of provider is July 1, 2005, the nursing facility's rate shall be 73187
the rate paid to the previous provider for nursing facility 73188
services that the previous provider provided on June 30, 2005, 73189
less any amount of that rate that reflects reimbursement to the 73190
previous provider for the franchise permit fee that the previous 73191
provider paid under section 3721.53 of the Revised Code. 73192

(D) If, during fiscal year 2006 or 2007, a nursing facility 73193
obtains certification as a nursing facility from the Director of 73194
Health and begins participation in the Medicaid program, the 73195
nursing facility shall be paid, for nursing facility services the 73196
nursing facility provides during the period beginning on the date 73197
the nursing facility begins participation in the Medicaid program 73198
and ending June 30, 2007, a rate that is the median of all rates 73199
paid to nursing facilities on July 1, 2006. 73200

(E) If, during fiscal year 2006 or 2007, one or more Medicaid 73201
certified beds are added to a nursing facility with a valid 73202
Medicaid provider agreement for the time that the beds are added, 73203
the nursing facility shall be paid a rate for the new beds that is 73204
the same as the nursing facility's rate for the Medicaid certified 73205
beds that are in the nursing facility on the day before the new 73206
beds are added. 73207

(F) An adjustment necessitated by an audit of a nursing 73208
facility's 2003 cost report may be applied to a rate established 73209
under this section for the nursing facility. 73210

(G) The department of job and family services shall follow 73211
this section, in determining the rate to be paid a nursing 73212
facility under the Medicaid program for nursing facility services 73213
provided during fiscal years 2006 and 2007 notwithstanding 73214
anything to the contrary in sections 5111.20 to 5111.33 of the 73215
Revised Code. 73216

Section 206.66.28. FISCAL YEAR 2006 AND FISCAL YEAR 2007 73217
MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR 73218

(A) As used in this section: 73219

"2003 cost report" means a complete and adequate Medicaid 73220
cost report covering calendar year 2003 filed with the Department 73221
of Job and Family Services under section 5111.23 of the Revised 73222
Code. 73223

"Intermediate care facility for the mentally retarded" has 73224
the same meaning as in section 5111.20 of the Revised Code. 73225

"ICF/MR services" means intermediate care facility for the 73226
mentally retarded services covered by the Medicaid program that an 73227
intermediate care facility for the mentally retarded provides to a 73228
resident of the facility who is a Medicaid recipient eligible for 73229
Medicaid-covered intermediate care facility for the mentally 73230
retarded services. 73231

(B) Except as provided in division (C) of this section, an 73232
intermediate care facility for the mentally retarded that has a 73233
valid Medicaid provider agreement on June 30, 2005, and a valid 73234
Medicaid provider agreement for fiscal years 2006 and 2007 shall 73235
be paid, for ICF/MR services the facility provides during fiscal 73236
years 2006 and 2007, the rate the facility is paid for providing 73237
ICF/MR services on June 30, 2005. 73238

(C) If an intermediate care facility for the mentally 73239
retarded undergoes a change of provider during fiscal year 2006 or 73240
2007, the facility shall be paid, for ICF/MR services the facility 73241
provides during the period beginning on the effective date of the 73242
change of provider and ending June 30, 2007, the rate paid to the 73243
previous provider for ICF/MR services that the previous provider 73244
provided on the day immediately before the effective date of the 73245
change of provider. 73246

(D) If, during fiscal year 2006 or 2007, an intermediate care facility for the mentally retarded obtains certification as an intermediate care facility for the mentally retarded from the Director of Health and begins participation in the Medicaid program, the facility shall be paid, for ICF/MR services the facility provides during the period beginning on the date the facility begins participation in the Medicaid program and ending June 30, 2007, a rate that is the median of all rates paid to intermediate care facilities for the mentally retarded on July 1, 2006.

(E) If, during fiscal year 2006 or 2007, one or more Medicaid certified beds are added to an intermediate care facility for the mentally retarded with a valid Medicaid provider agreement for the time that the beds are added, the facility shall be paid a rate for the new beds that is the same as the facility's rate for the Medicaid certified beds that are in the facility on the day before the new beds are added.

(F) An adjustment necessitated by an audit of an intermediate care facility for the mentally retarded's 2003 cost report may be applied to a rate established under this section for the facility.

(G) The department of job and family services shall follow this section in determining the rate to be paid an intermediate care facility for the mentally retarded under the Medicaid program for ICF/MR services provided during fiscal years 2006 and 2007 notwithstanding anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code.

Section 206.66.30. ICF/MR STUDY COUNCIL

(A) As used in this section:

(1) "Intermediate care facility for the mentally retarded" or "ICF/MR" has the same meaning as in section 5111.20 of the Revised

Code.	73277
(2) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.	73278 73279
(B) There is hereby created the Intermediate Care Facility for the Mentally Retarded Waiver Study Council. The Council shall consist of the following members:	73280 73281 73282
(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.	73283 73284 73285 73286 73287
(2) The Director of Job and Family Services or the Director's designee;	73288 73289
(3) The Director of Mental Retardation and Developmental Disabilities or the Director's designee;	73290 73291
(4) One representative of each of the following organizations, appointed by the organization:	73292 73293
(a) Advocacy and Protective Services, Incorporated;	73294
(b) The Arc of Ohio;	73295
(c) The Ohio League for the Mentally Retarded;	73296
(d) People First of Ohio;	73297
(e) The Ohio Association of County Boards of Mental Retardation and Developmental Disabilities;	73298 73299
(f) The Ohio Provider Resource Association;	73300
(g) The Ohio Health Care Association.	73301
Members of the Council shall receive no compensation for serving on the Council.	73302 73303
(C) The Council shall study the use of a Medicaid waiver	73304

component to replace ICF/MR services. The study shall address all 73305
of the following: 73306

(1) The services that would be made available to individuals 73307
under the waiver component, compared to the services available 73308
under ICF/MR services; 73309

(2) The sources of funding for services to be made available 73310
under the waiver component and the adequacy of those funding 73311
sources, compared to funding available for ICF/MR services; 73312

(3) The impact of converting the ICF/MR service into a 73313
Medicaid waiver component on the individuals served, their 73314
families and guardians, county boards of mental retardation and 73315
developmental disabilities, and providers of services; 73316

(4) The impact of converting the ICF/MR service into a 73317
Medicaid waiver component on the ability of individuals and their 73318
families and guardians to choose services and residential settings 73319
that they consider appropriate to meet their needs; 73320

(5) The advisability of including developmental centers 73321
operated by the Department of Mental Retardation and Developmental 73322
Disabilities in the waiver component; 73323

(6) The methodology for reimbursing providers of services 73324
under the waiver component and how that methodology compares to 73325
the methodology for reimbursing ICF/MR services; 73326

(7) The cost-effectiveness of the waiver component, including 73327
administrative costs and federal funding, compared to the ICF/MR 73328
service; 73329

(8) The most effective administrative structure for the 73330
waiver component; 73331

(9) Any other matters the Council considers appropriate. 73332

(D) Not later than January 1, 2007, the Council shall submit 73333
a report of its findings and its recommendation on the question of 73334

whether the state should submit a request for approval of a waiver 73335
to the United States Secretary of Health and Human Services. If 73336
the Council recommends that the state request approval of a 73337
waiver, the Council shall include in its report detailed 73338
recommendations addressing all of the matters listed in division 73339
(C) of this section. The Council shall submit its report to the 73340
Governor, the Speaker and Minority Leader of the House of 73341
Representatives, and the President and Minority Leader of the 73342
Senate. 73343

***Section 206.66.36. ASSISTED LIVING MEDICAID WAIVER PROGRAM** 73344

(A) As used in this section, "Assisted Living Program" has 73345
the same meaning as in section 5111.89 of the Revised Code. 73346

(B) After the Department of Job and Family Services enters 73347
into a contract with the Department of Aging under section 5111.91 73348
of the Revised Code for the Department of Aging to administer the 73349
Assisted Living Program, the Director of Job and Family Services 73350
shall quarterly certify to the Director of Budget and Management 73351
the estimated costs of the Assisted Living Program for the 73352
upcoming quarter. The estimate shall include the state and federal 73353
share of the costs. On receipt of the certified estimated costs 73354
for an upcoming quarter, the Director of Budget and Management 73355
shall do all of the following: 73356

(1) Transfer the state share of the amount of the estimated 73357
costs from GRF appropriation item 450-525, Health Care/Medicaid, 73358
to GRF appropriation item 490-422, Assisted Living; 73359

(2) Transfer the federal share of the amount of the estimated 73360
costs from GRF appropriation item 450-525, Health Care/Medicaid, 73361
to Fund 3C4, appropriation item 490-622, Assisted Living - 73362
Federal; 73363

(3) Increase the appropriation in JFS Fund 3G5, appropriation 73364

item 600-655, Interagency Reimbursement, by the federal share of 73365
the amount of the estimated costs. 73366

(C) The funds that the Director of Budget and Management 73367
transfers and increases under this section are hereby 73368
appropriated. 73369

***Section 206.66.37.** Section 206.66.36 of this act takes 73370
effect October 1, 2005. 73371

Section 206.66.39. MEDICAID ELIGIBILITY REDUCTIONS 73372

The Director of Job and Family Services shall, not later than 73373
ninety days after the effective date of this section, submit to 73374
the United States Secretary of Health and Human Services an 73375
amendment to the state Medicaid plan to reduce to ninety per cent 73376
of the federal poverty guidelines the amount specified in division 73377
(A)(2) of section 5111.019 of the Revised Code as it existed 73378
immediately prior to the amendment made by this act. The reduction 73379
shall be implemented not earlier than ninety days after the 73380
effective date of this section and not later than the effective 73381
date of federal approval. 73382

Section 206.66.42. TERMINATION OF THE DISABILITY MEDICAL 73383
ASSISTANCE PROGRAM 73384

(A) The Department of Job and Family Services shall terminate 73385
the Disability Medical Assistance Program effective October 1, 73386
2005. All rules, standards, guidelines, or orders adopted or 73387
issued by the Director of Job and Family Services to govern the 73388
Disability Medical Assistance Program before its termination shall 73389
remain in effect on and after October 1, 2005, for the following 73390
purposes: 73391

(1) To establish the legal obligations of the Department for 73392
claims arising from the Program; 73393

(2) To determine an individual's previous eligibility for the Program;	73394 73395
(3) To determine the validity of a claim for services under the Program;	73396 73397
(4) To recover erroneous payments, as defined in section 5115.23 of the Revised Code, made before October 1, 2005.	73398 73399
(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.	73400 73401 73402 73403
(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.	73404 73405 73406 73407
(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.	73408 73409 73410 73411 73412 73413 73414
(E) Notwithstanding the termination of the Disability Medical Assistance Program, the following remain effective on and after October 1, 2005:	73415 73416 73417
(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;	73418 73419 73420 73421
(2) As described in section 5101.59 of the Revised Code, the assignment of a Program recipient's right to medical support made	73422 73423

by court or administrative order or payments from a third party. 73424

(F) The Department may take reasonable steps to inform 73425
Program recipients about the termination of the Program. A county 73426
department of job and family services shall take action with 73427
respect to these activities when requested by the Department. 73428

(G) An action taken under division (F) of this section shall 73429
not be the basis for requiring the Department to extend the 73430
Program or to approve or extend a person's eligibility for the 73431
Program on or after October 1, 2005. 73432

(H) The Director may adopt rules in accordance with section 73433
111.15 of the Revised Code to implement this section. 73434

Section 206.66.43. MEDICAID CARE MANAGEMENT WORKING GROUP 73435

(A) The Department of Job and Family Services shall establish 73436
the Medicaid Care Management Working Group composed of the 73437
following individuals: 73438

(1) Four individuals appointed by the Department to represent 73439
Medicaid care management plans; 73440

(2) Four individuals appointed by the Department to represent 73441
major health care and behavioral care trade associations; 73442

(3) Two individuals appointed by the Department to represent 73443
consumer advocates; 73444

(4) An individual appointed by the Department to represent 73445
county boards job and family services; 73446

(5) The Director of Job and Family Services or the Director's 73447
designee; 73448

(6) The Director of Health or the Director's designee; 73449

(7) The Superintendent of Insurance or the Superintendent's 73450
designee; 73451

(8) The Director of Aging or the Director's designee;	73452
(9) The Director of Mental Health or the Director's designee;	73453
(10) The Director of Alcohol and Drug Addiction Services or the Director's designee;	73454 73455
(11) The Director of Mental Retardation and Developmental Disabilities or the Director's designee;	73456 73457
(12) The Director of the Rehabilitation Services Commission.	73458
(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:	73459 73460 73461 73462
(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;	73463 73464 73465 73466
(2) Consider how best to increase consistency and facilitate care management expansion;	73467 73468
(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;	73469 73470 73471 73472
(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 fund the program from the Medicaid Program's managed care budget.	73473 73474 73475 73476 73477 73478 73479 73480

Section 206.66.44. MEDICAID COVERAGE OF DENTAL SERVICES 73481

For fiscal years 2006 and 2007, the Medicaid program shall 73482
cover dental services as follows: 73483

(A) For Medicaid recipients under twenty-one years of age, in 73484
at least the amount, duration, and scope that it did immediately 73485
before the effective date of this section under rules adopted 73486
under section 5111.02 of the Revised Code governing Medicaid 73487
coverage of dental services for such recipients; 73488

(B) For Medicaid recipients twenty-one years of age or older, 73489
in an amount, duration, and scope specified in rules that the 73490
Director of Job and Family Services shall adopt under section 73491
5111.02 of the Revised Code. 73492

Section 206.66.45. MEDICAID COVERAGE OF VISION SERVICES 73493

For fiscal years 2006 and 2007, the Medicaid program shall 73494
cover vision services in at least the amount, duration, and scope 73495
that the program covers such services immediately prior to the 73496
effective date of this section. 73497

Section 206.66.46. (A) The Department of Job and Family 73498
Services shall do all of the following: 73499

(1) Assess the feasibility of an interagency agreement 73500
between the Department and the Rehabilitation Services Commission 73501
whereby the Commission would perform disability determinations for 73502
programs and services offered by the Department or a county 73503
department of job and family services in which disability is an 73504
eligibility requirement; 73505

(2) Estimate potential cost-savings and other advantages, as 73506
well as any potential disadvantages, that might result from the 73507
interagency agreement; 73508

(3) Determine how the interagency agreement could be implemented, including an estimate of the approximate time needed to implement it. 73509
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(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. 73512
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Section 206.66.48. STATE MEDICAID PLAN AMENDMENT REGARDING ESTATE RECOVERY 73517
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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. 73519
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Section 206.66.49. SINGLE AUDIT OF MEDICAID DURING FY 2006 AND 2007 73524
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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. 73526
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Section 206.66.51. MEDICAID PAYMENT FOR GRADUATE MEDICAL EDUCATION COSTS 73534
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The Director of Job and Family Service shall submit to the United States Secretary of Health and Human Services an amendment 73536
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to the state Medicaid plan to implement section 5111.191 of the
Revised Code. The Department shall implement that section upon the
Secretary's approval of the amendment.

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Section 206.66.52. (A) There is hereby created the Medicaid
Transition Council to oversee the restructuring of Ohio's Medicaid
program. The Council shall be composed of the following:

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(1) The Director of Job and Family Services or the Director's
designee;

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(2) The Director of Aging or the Director's designee;

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(3) The Director of Drug and Alcohol Addiction Services or
the Director's designee;

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(4) The Director of Health or the Director's designee;

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(5) The Director of Mental Health or the Director's designee;

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(6) The Director of Mental Retardation and Developmental
Disabilities or the Director's designee;

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(7) The Director of Budget and Management or the Director's
designee;

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(8) The State Chief Information Officer or the Officer's
designee;

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(9) An individual appointed by the Speaker of the House of
Representatives;

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(10) An individual appointed by the President of the Senate.

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(B) The Council shall do all of the following:

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(1) Initiate, guide, and oversee the implementation of
measures recommended by the Ohio Commission to Reform Medicaid;

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(2) Devise a centralized financing function to coordinate the
activities of all executive agencies that deliver Medicaid
services;

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(3) With regard to the future creation of a Medicaid department, all of the following:	73566
(a) Design the scope and structure of the department;	73567
(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;	73568
(c) Secure resources required to implement the business plan described in division (B)(3)(b) of this section.	73569
(4) By not later than December 31, 2006, submit to the Governor a written report of the Council's findings.	73570
Section 206.66.57. ODJFS FUNDS	73571
AGENCY FUND GROUP	73572
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.	73573
Section 206.66.60. EMPLOYER SURCHARGE	73574
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 Family Services in the same manner as set forth in section 4141.251 of the Revised Code as it existed prior to its repeal by Sub. H.B. 478 of the 122nd General Assembly, notwithstanding the	73575

repeal of the surcharge for calendar years after 1990, pursuant to 73595
Sub. H.B. 478 of the 122nd General Assembly, except that amounts 73596
received by the Director on or after July 1, 2001, shall be 73597
deposited into the Unemployment Compensation Special 73598
Administrative Fund (Fund 4A9) established pursuant to section 73599
4141.11 of the Revised Code. 73600

Section 206.66.63. TRANSFER OF FUNDS TO THE DEPARTMENT OF 73601
AGING 73602

The Department of Job and Family Services shall transfer, 73603
through intrastate transfer vouchers, cash from Fund 4J5, Home and 73604
Community-Based Services for the Aged, to Fund 4J4, PASSPORT, in 73605
the Department of Aging. The sum of the transfers shall be 73606
\$33,268,052 in fiscal year 2006 and \$33,263,984 in fiscal year 73607
2007. The transfer may occur on a quarterly basis or on a schedule 73608
developed and agreed to by both departments. 73609

Section 206.66.66. PASSPORT EVALUATION 73610

(A) There is hereby created the PASSPORT Evaluation Panel to 73611
oversee the performance of an evaluation of the PASSPORT Program 73612
conducted by an independent contractor. The Panel shall be 73613
composed of the following members: 73614

(1) The Director of Job and Family Services or the Director's 73615
designee; 73616

(2) The Director of Aging or the Director's designee; 73617

(3) A representative of the Central Ohio Area Agency on 73618
Aging, appointed by the Agency; 73619

(4) A representative of PASSPORT providers, appointed by the 73620
Director of Aging; 73621

(5) A representative of the Ohio Academy of Nursing Homes, 73622
appointed by the Academy; 73623

(6) A representative of the Ohio Health Care Association, 73624
appointed by the Association; 73625

(7) A representative of the Association for Ohio 73626
Philanthropic Homes and Housing for the Aging, appointed by the 73627
Association; 73628

(8) A representative of Scripps Gerontology Center at Miami 73629
University, appointed by the Center. 73630

Panel members shall serve without compensation. The 73631
Department of Aging shall provide assistance to the PASSPORT 73632
Evaluation Panel, including support services and meeting space. 73633
The Panel shall convene not later than sixty days after the 73634
effective date of this section. 73635

(B) The Panel, with the Department of Job and Family 73636
Services, shall do all of the following: 73637

(1) Establish criteria to be used in selecting an independent 73638
contractor to evaluate the PASSPORT Program. The criteria shall 73639
specify that the independent contractor must not be affiliated 73640
with any state agency. 73641

(2) In accordance with the request for proposal process 73642
administered by the Department of Administrative Services, accept 73643
and evaluate bids from potential contractors; 73644

(3) Select to evaluate the PASSPORT Program an independent 73645
contractor that meets the criteria established by the Panel and 73646
the Department. 73647

(C) The independent contractor selected by the PASSPORT 73648
Evaluation Panel shall, in conducting the evaluation of the 73649
PASSPORT Program, do all of the following: 73650

(1) Evaluate the types of services provided under the program 73651
and determine the amount expended for each service; 73652

(2) Sample audit provider records and billing for services to 73653

determine their accuracy; 73654

(3) Determine elements of the program that may be vulnerable to fraud; 73655
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(4) Evaluate the cost-effectiveness of services provided under the program; 73657
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(5) Evaluate the population served and the appropriateness of the program for that population; 73659
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(6) Evaluate past and present waiting lists for services and determine the impact outcomes of the delay in services; 73661
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(7) Evaluate program outcomes to determine the program's effectiveness in preventing nursing home admissions; 73663
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(8) Recommend improvements to correct any deficiencies found during the evaluation process, including methods to achieve greater effectiveness in attaining program objectives; 73665
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(9) Any additional action requested by the PASSPORT Evaluation Panel. 73668
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The independent contractor shall issue to the Panel quarterly reports and, by not later than May 15, 2007, a final report, of its findings. By not later than June 30, 2007, the PASSPORT Evaluation Panel shall approve a final report. 73670
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Notwithstanding any limitations in sections 3721.51 and 3721.56 of the Revised Code, in each fiscal year, cash from Fund 4J5, Home and Community-Based Services for the Aged, in excess of the amounts needed for the transfers may be used by the Department of Job and Family Services for the following purposes: (A) up to \$1.0 million in each fiscal year to fund the state share of audits of Medicaid cost reports filed with the Department of Job and Family Services by nursing facilities and intermediate care facilities for the mentally retarded; and (B) up to \$350,000 in fiscal year 2006 and up to \$350,000 in fiscal year 2007 to provide 73674
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one-time transitional benefits under the Ohio Access Success 73684
Project that the Director of Job and Family Services may establish 73685
under section 5111.88 of the Revised Code. 73686

Section 206.66.69. OHIO ASSOCIATION OF SECOND HARVEST FOOD 73687
BANKS 73688

As used in this section, "federal poverty guidelines" has the 73689
same meaning as in section 5101.46 of the Revised Code. 73690

Notwithstanding section 5101.46 of the Revised Code, and 73691
prior to making any allocation to county departments of job and 73692
family services, the Department of Job and Family Services shall 73693
provide \$5,500,000 in each fiscal year from the foregoing 73694
appropriation item 600-620, Social Services Block Grant, for use 73695
in funding a grant agreement with the Ohio Association of Second 73696
Harvest Food Banks. The Department shall enter into a grant 73697
agreement with the Ohio Association of Second Harvest Food Banks 73698
to reimburse it for costs incurred in the purchase of food 73699
products and the distribution of those food products to agencies 73700
participating in the emergency food distribution program. 73701
Notwithstanding section 5101.46 of the Revised Code, the grant may 73702
permit the Ohio Association of Second Harvest Food Banks to use up 73703
to 5 per cent of the annual funding for administrative costs. The 73704
Department may advance funds to the grantee under section 5101.10 73705
of the Revised Code. 73706

Prior to entering into the grant agreement, the Ohio 73707
Association of Second Harvest Food Banks shall submit to the 73708
Department for approval a plan for the distribution of the food 73709
products to local food distribution agencies. If the plan meets 73710
the requirements and conditions established by the Department, the 73711
plan shall be incorporated into the grant agreement. The grant 73712
agreement shall also require the Ohio Association of Second 73713
Harvest Food Banks to ensure that local agencies will limit 73714

participation of individuals and families who receive any of the 73715
food products purchased with these funds to those who have an 73716
income at or below 200 per cent of the federal poverty guidelines. 73717
The Department and the Ohio Association of Second Harvest Food 73718
Banks shall agree on reporting requirements to be incorporated 73719
into the grant agreement, including a statement of expected 73720
performance outcomes from the Ohio Association of Second Harvest 73721
Food Banks and a requirement for their evaluation of their success 73722
in achieving those outcomes. 73723

Section 206.66.72. TRANSFER OF FUNDS TO THE DEPARTMENT OF 73724
MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES 73725

The Department of Job and Family Services shall transfer, 73726
through intrastate transfer vouchers, cash from Fund 4K1, ICF/MR 73727
Bed Assessments, to Fund 4K8, Home and Community-Based Services, 73728
in the Department of Mental Retardation and Developmental 73729
Disabilities. The amount transferred shall equal \$12,000,000 in 73730
fiscal year 2006 and \$12,000,000 in fiscal year 2007. The transfer 73731
may occur on a quarterly basis or on a schedule developed and 73732
agreed to by both departments. 73733

Section 206.66.75. FUNDING FOR HABILITATIVE SERVICES 73734

Notwithstanding any limitations contained in sections 5112.31 73735
and 5112.37 of the Revised Code, in each fiscal year, cash from 73736
Fund 4K1, ICF/MR Bed Assessments, in excess of the amounts needed 73737
for transfers to Fund 4K8, Home and Community-Based Services, in 73738
the Department of Mental Retardation and Developmental 73739
Disabilities, may be used by the Department of Job and Family 73740
Services to cover costs of care provided to participants in a 73741
waiver with an ICF/MR level of care requirement administered by 73742
the Department of Job and Family Services. 73743

Section 206.66.78. COMMUNITY ALTERNATIVE FUNDING SYSTEM 73744

(A) As used in this section, "habilitation center services" 73745
has the same meaning as in former section 5111.041 of the Revised 73746
Code as that section existed on June 30, 2005. 73747

(B) The Director of Job and Family Services may adopt rules 73748
under section 111.15 of the Revised Code as necessary to terminate 73749
the community alternative funding system on July 1, 2005. 73750

(C) The Department of Job and Family Services may inform 73751
individuals who received habilitation center services under the 73752
community alternative funding system on June 30, 2005, and such 73753
individuals' representatives about alternative services that may 73754
be available for the individuals. The Department may require 73755
county departments of job and family services to provide such 73756
information to the individuals and their representatives. 73757

(D) Habilitation center services provided before July 1, 73758
2005, are subject to the laws, rules, standards, guidelines, and 73759
orders regarding habilitation center services that were in effect 73760
at the time the services were provided. This includes such laws, 73761
rules, standards, guidelines, and orders regarding the 73762
responsibility for the nonfederal share of the services, the fee 73763
assessed under division (D) of section 5123.041 of the Revised 73764
Code as that section existed on the day the services were 73765
provided, cost reports, audits, and the recovery of erroneous 73766
payments. 73767

(E) The Department of Job and Family Services may use funds 73768
appropriated to the Department for the purpose of habilitation 73769
center services to satisfy a claim or contingent claim for 73770
habilitation center services provided before July 1, 2005, if the 73771
Department receives the claim or contingent claim before July 1, 73772
2006. The Department has no liability to satisfy either of the 73773

following:	73774
(1) A claim for habilitation center services provided before July 1, 2005, if the Department receives the claim on or after July 1, 2006.	73775 73776 73777
(2) A claim for habilitation center services provided on or after July 1, 2005.	73778 73779
(F) To the extent authorized by section 5101.35 of the Revised Code, an individual may initiate or continue a state hearing, administrative appeal, or appeal to a court of common pleas regarding a decision or order concerning habilitation center services that were available before July 1, 2005. A decision resulting from a state hearing, administrative appeal, or appeal to a court of common pleas may not extend an individual's eligibility for habilitation center services beyond June 30, 2005. No individual may utilize section 5101.35 of the Revised Code to contest the July 1, 2005, termination of the community alternative funding system.	73780 73781 73782 73783 73784 73785 73786 73787 73788 73789 73790
(G) Neither of the following are abrogated by the termination of the community alternative funding system:	73791 73792
(1) The right of recovery given to the Department of Job and Family Services or a county department of job and family services under section 5101.58 of the Revised Code for habilitation center services provided before July 1, 2005.	73793 73794 73795 73796
(2) The right to medical support or payments from a third party that is assigned to the Department under section 5101.59 of the Revised Code for habilitation center services provided before July 1, 2005.	73797 73798 73799 73800
Section 206.66.84. CHILDREN'S TRUST FUND	73801
Notwithstanding sections 3109.13 to 3109.18 of the Revised Code, in fiscal year 2006, the Director of Budget and Management	73802 73803

shall transfer \$1,500,000 cash from the Children's Trust Fund 73804
(Fund 198 in the Department of Job and Family Services) to the 73805
Partnerships for Success Fund (Fund 5BH in the Department of Youth 73806
Services). On or before January 1, 2007, the Director of Budget 73807
and Management shall transfer to the Children's Trust Fund (Fund 73808
198) any amount of cash that remains unspent in the Partnerships 73809
for Success Fund (Fund 5BH). 73810

HOSPITAL CARE ASSURANCE MATCH FUND 73811

Appropriation item 600-650, Hospital Care Assurance Match, 73812
shall be used by the Department of Job and Family Services in 73813
accordance with division (B) of section 5112.18 of the Revised 73814
Code. 73815

Section 206.66.87. HEALTH CARE SERVICES ADMINISTRATION 73816

The foregoing appropriation item 600-654, Health Care 73817
Services Administration, shall be used by the Department of Job 73818
and Family Services for costs associated with the administration 73819
of the Medicaid program. 73820

Section 206.66.90. HEALTH CARE SERVICES ADMINISTRATION FUND 73821

Of the amount received by the Department of Job and Family 73822
Services during fiscal year 2006 and fiscal year 2007 from the 73823
first installment of assessments paid under section 5112.06 of the 73824
Revised Code and intergovernmental transfers made under section 73825
5112.07 of the Revised Code, the Director of Job and Family 73826
Services shall deposit \$350,000 in each fiscal year into the state 73827
treasury to the credit of the Health Care Services Administration 73828
Fund (Fund 5U3). 73829

Section 206.66.93. CHILD SUPPORT COLLECTIONS/TANF MOE 73830

The foregoing appropriation item 600-658, Child Support 73831

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 73839

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 73851
DEPARTMENT OF MENTAL HEALTH 73852

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 73860

All unexpended funds remaining at the end of fiscal year 2005 73861
that were appropriated and made available to the state under 73862
section 903(d) of the Social Security Act, as amended, in the 73863
foregoing appropriation item 600-678, Federal Unemployment 73864
Programs (Fund 3V4), are hereby appropriated to the Department of 73865
Job and Family Services. Upon the request of the Director of Job 73866
and Family Services, the Director of Budget and Management shall 73867
increase the appropriation for fiscal year 2006 by the amount 73868
remaining unspent from the fiscal year 2005 appropriation and 73869
shall increase the appropriation for fiscal year 2007 by the 73870
amount remaining unspent from the fiscal year 2006 appropriation. 73871
The appropriation shall be used under the direction of the 73872
Department of Job and Family Services to pay for administrative 73873
activities for the Unemployment Insurance Program, employment 73874
services, and other allowable expenditures under section 903(d) of 73875
the Social Security Act, as amended. 73876

The amounts obligated pursuant to this section shall not 73877
exceed at any time the amount by which the aggregate of the 73878
amounts transferred to the account of the state under section 73879
903(d) of the Social Security Act, as amended, exceeds the 73880
aggregate of the amounts obligated for administration and paid out 73881
for benefits and required by law to be charged against the amounts 73882
transferred to the account of the state. 73883

Section 206.67.06. WORKFORCE DEVELOPMENT GRANT AGREEMENT 73884

The Department of Job and Family Services may use 73885
appropriations from appropriation item 600-688, Workforce 73886
Investment Act, to provide financial assistance for workforce 73887
development activities included in a grant agreement entered into 73888
by the department in accordance with section 5101.20 of the 73889
Revised Code. 73890

Section 206.67.07. ACCOUNTABILITY AND CREDIBILITY TOGETHER 73891

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. 73892
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Section 206.67.08. KINSHIP CAREGIVER SUBSIDY PROGRAM 73896

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. 73897
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Section 206.67.09. OHIO ALLIANCE OF BOYS AND GIRLS CLUBS 73901

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. 73902
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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 incorporated into the grant agreement. 73912
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The Ohio Alliance of Boys and Girls Clubs shall return any 73920
fiscal year 2006 funds from this grant remaining unspent on June 73921
30, 2006, to the Ohio Department of Job and Family Services not 73922
later than November 1, 2006. The Ohio Alliance of Boys and Girls 73923
Clubs shall return any fiscal year 2007 funds from this grant 73924
remaining unspent on June 30, 2007, to the Ohio Department of Job 73925
and Family Services not later than November 1, 2007. 73926

Section 206.67.A. CHILD WELFARE TRAINING INITIATIVE 73927

Of the foregoing appropriation item 600-689, TANF Block Grant 73928
(Fund 3V6), \$200,000 per fiscal year shall be provided to the 73929
National Center for Adoption Law and Policy to fund a 73930
multi-disciplinary child welfare training initiative. The 73931
Department of Job and Family Services shall coordinate with the 73932
National Center for Adoption Law and Policy to determine the focus 73933
of the training provided each year and to ensure that the training 73934
is designed to meet one of the four purposes of the Temporary 73935
Assistance to Needy Families program. 73936

***Section 206.67.10.** EMPLOYMENT RETENTION INCENTIVE PROGRAM 73937

(A) As used in this section: 73938

(1) "Assistance group" has the same meaning as in section 73939
5107.02 of the Revised Code. 73940

(2) "Ohio Works First" means the program established under 73941
Chapter 5107. of the Revised Code. 73942

(B) Subject to section 5101.801 of the Revised Code, in 73943
fiscal year 2007 the Department of Job and Family Services may 73944
establish and administer the Employment Retention Incentive 73945
Program under which the Department provides cash payments to 73946
eligible assistance groups. The Department shall use the foregoing 73947
appropriation item 600-689, TANF Block Grant, to fund the program. 73948

To be eligible for the Employment Retention Incentive Program, an assistance group must meet all of the following requirements:

(1) The assistance group must apply using an application that contains all of the information that rules specified in this section require in accordance with the application process established in those rules;

(2) The assistance group must have ceased to participate in Ohio Works First in accordance with rules specified in this section;

(3) The assistance group must include a member who was employed during the last month the assistance group participated in Ohio Works First in accordance with rules specified in this section;

(4) That member of the assistance group must remain employed in accordance with rules specified in this section;

(5) The assistance group must meet all other eligibility requirements established in rules specified in this section.

(C) If the Department establishes the Employment Retention Incentive Program, the Department shall provide cash payments under the program in a manner that enables the cash payments to be excluded from the definition of "assistance" in 45 C.F.R. 260.31(a) and instead be benefits that 45 C.F.R. 260.31(b) excludes from the definition of assistance. Each county Department of Job and Family Services shall make eligibility determinations for the program and perform other administrative duties for the program in accordance with rules specified in this section.

(D) If the Department establishes the Employment Retention Incentive Program, the Department shall adopt rules under division (C) of section 5101.801 of the Revised Code to establish all of

the following for the program: 73979

(1) The information that an application for the program must 73980
contain; 73981

(2) The application process for the program, including the 73982
process to verify eligibility for the program; 73983

(3) The manner in which an assistance group must have ceased 73984
to participate in Ohio Works First for the assistance group to 73985
qualify for the program; 73986

(4) The manner in which an assistance group member must have 73987
been employed during the last month the assistance group 73988
participated in Ohio Works First for the assistance group to 73989
qualify for the program; 73990

(5) The manner in which an assistance group member must 73991
remain employed for the assistance group to qualify for the 73992
program; 73993

(6) Other eligibility requirements for the program; 73994

(7) The amounts that eligible assistance groups are to 73995
receive as cash payments under the program; 73996

(8) The frequency and duration that eligible assistance 73997
groups are to receive cash payments under the program; 73998

(9) Requirements governing county departments' administrative 73999
duties regarding the program. 74000

(E) In adopting rules under division (D)(2) of this section 74001
establishing the application process for the Employment Retention 74002
Incentive Program, the director may not require that application 74003
be submitted to county departments of job and family services. 74004

***Section 206.67.11.** Section 206.67.10 of this act takes 74005
effect July 1, 2006. 74006

Section 206.67.12. EARLY LEARNING INITIATIVE	74007
(A) As used in this section:	74008
(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).	74009 74010 74011 74012 74013 74014 74015
(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.	74016 74017 74018 74019
(3) "Child care" has the same meaning as in section 5104.01 of the Revised Code.	74020 74021
(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.	74022 74023 74024 74025 74026 74027 74028
(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:	74029 74030 74031
(a) Early learning services, as defined by the Department of Education pursuant to division (C)(1) of Section 206.09.54 of this act;	74032 74033 74034
(b) Child care.	74035

(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; 74066

(4) In consultation with the Department of Education, adopt 74067
rules in accordance with Chapter 119. of the Revised Code to 74068
implement the Early Learning Initiative. The rules shall include 74069
provisions regarding the establishment of co-payments for families 74070
of eligible children whose family income is more than one hundred 74071
sixty-five per cent of the federal poverty line but equal to or 74072
less than one hundred ninety-five per cent of the federal poverty 74073
line. The rules shall exempt from co-payment requirements those 74074
families whose family income is equal to or less than one hundred 74075
sixty-five per cent of the federal poverty line. The rules also 74076
shall include a definition of "weekly attendance rate" for the 74077
purpose of reimbursing early learning agencies. 74078

(5) In consultation with the Department of Education, 74079
establish a caretaker employment eligibility requirement for 74080
participation in the Early Learning Initiative that specifies the 74081
minimum number of hours that the caretaker of the eligible child 74082
must be employed and the time period over which the minimum number 74083
of hours is to be measured. 74084

(D) Each county department of job and family services shall 74085
determine eligibility for Title IV-A services for children seeking 74086
to enroll in an early learning program and shall establish 74087
co-payment requirements in accordance with the rules adopted under 74088
division (C)(4) of this section. 74089

(E) The Department of Job and Family Services shall ensure 74090
that all reimbursements paid to an early learning agency under 74091
this section are only for Title IV-A services provided to eligible 74092
children. 74093

(F) Upon the transfer of appropriation from Department of 74094
Education appropriation line 200-663, Early Learning Initiative 74095
(Fund 5W2), to Department of Job and Family Services appropriation 74096

item 600-689, TANF Block Grant (Fund 3V6), up to \$94,380,000 in 74097
fiscal year 2006 and up to \$113,256,000 in fiscal year 2007 shall 74098
be used to reimburse early learning agencies under this section. 74099
The Department of Job and Family Services shall provide up to 74100
10,000 slots of services for eligible children in fiscal year 2006 74101
and up to 12,000 slots of services for eligible children in fiscal 74102
year 2007 through the Early Learning Initiative. In each fiscal 74103
year, the Department shall allocate at least seventeen slots of 74104
services to each county in the state. 74105

If, on or after the thirty-first day of December of each 74106
fiscal year, the Director of Budget and Management, in 74107
consultation with the Director of Job and Family Services and the 74108
Superintendent of Public Instruction, determines that there is a 74109
balance of funds in the Early Learning Initiative in either fiscal 74110
year 2006 or fiscal year 2007, the Director of Budget and 74111
Management may approve the use of the funds by the Department of 74112
Job and Family Services to provide publicly funded child care, as 74113
defined in section 5104.01 of the Revised Code. 74114

Of the foregoing appropriation item 600-689, TANF Block Grant 74115
(Fund 3V6), up to \$800,000 in each fiscal year may be used by the 74116
Department of Job and Family Services for administration of the 74117
Early Learning Initiative. 74118

The Director of Budget and Management, at the request of the 74119
Director of Job and Family Services, may transfer in each fiscal 74120
year up to \$2,200,000 cash from the Temporary Assistance for Needy 74121
Families Federal Fund (Fund 3V6) to the Early Learning Initiative 74122
(Fund 5W2) for administration of the Early Learning Initiative by 74123
the Department of Education. 74124

(G) Any contract executed prior to July 1, 2005, between an 74125
early learning agency, the Department of Job and Family Services, 74126
and the Department of Education shall be deemed to be effective as 74127

of July 1, 2005, upon issuance of a state purchase order even if 74128
such purchase order is approved at some later date, unless the 74129
executed contract expressly provides for a start date after July 74130
1, 2005. 74131

Section 206.67.15. PRESCRIPTION DRUG REBATE FUND 74132

The foregoing appropriation item 600-692, Health Care 74133
Services, shall be used by the Department of Job and Family 74134
Services in accordance with section 5111.081 of the Revised Code. 74135
Moneys recovered by the Department for either hospital settlements 74136
or pursuant to the Department's rights of recovery under section 74137
5101.58 of the Revised Code, that are not directed to the Health 74138
Care Services Administration Fund (Fund 5U3) under section 5111.94 74139
of the Revised Code, shall also be deposited into Fund 5P5. 74140

**Section 206.67.18. MEDICAID COVERAGE OF ALCOHOL, DRUG 74141
ADDICTION, AND MENTAL HEALTH SERVICES** 74142

(A) The amendments made by this act to section 5111.911 of 74143
the Revised Code pertaining to the contracts between the 74144
Department of Job and Family Services and the Departments of 74145
Mental Health and Alcohol and Drug Addiction Services established 74146
as interagency agreements for the administration of components of 74147
the Medicaid program shall be implemented according to the 74148
following schedule: 74149

(1) As soon as practicable after the amendments go into 74150
effect, the contracts shall require or specify procedures for 74151
implementation of utilization review. 74152

(2) Not later than July 1, 2006, the contracts shall require 74153
or specify procedures for implementation of utilization management 74154
and care management. 74155

(3) Not later than July 1, 2007, the contracts shall require 74156

or specify a process for making payments to providers based on a 74157
provider-specific fixed-rate reimbursement methodology. 74158

(B) To the maximum extent possible, the amendments to section 74159
5111.911 of the Revised Code shall be implemented in a manner that 74160
is consistent with the "State of Ohio Community Behavioral Health 74161
Medicaid Business Plan" finalized in August 2004, by the 74162
Departments of Job and Family Services, Mental Health, and Alcohol 74163
and Drug Addiction Services and the Ohio Association of Behavioral 74164
Health Authorities. 74165

Section 206.67.21. AGED, BLIND, AND DISABLED MANAGED CARE 74166

(A) Not later than June 30, 2006, the Director of Job and 74167
Family Services, in conjunction with the Office of Budget and 74168
Management, shall determine the amounts necessary to implement the 74169
Aged, Blind, and Disabled Managed Care Program. 74170

(B)(1) Notwithstanding section 183.02 of the Revised Code, on 74171
July 1, 2006, or as soon as possible thereafter, the Director of 74172
Budget and Management shall transfer cash equal to the state share 74173
of the amount determined pursuant to division (A) of this section 74174
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 74175
the ABD Managed Care - State Fund (Fund 5BZ in the Department of 74176
Job and Family Services), which is hereby created. Of the tobacco 74177
revenue that is credited to the Tobacco Master Settlement 74178
Agreement Fund (Fund 087) in fiscal year 2006, the share that is 74179
determined pursuant to section 183.02 of the Revised Code to be 74180
the amount transferred by the Director of Budget and Management 74181
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 74182
the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) 74183
shall be reduced by the amount that is transferred from the 74184
Tobacco Master Settlement Agreement Fund (Fund 087) to the ABD 74185
Managed Care - State Fund (Fund 5BZ) in accordance with this 74186
section. The amounts transferred under this division are hereby 74187

appropriated to appropriation item 600-698, ABD Managed Care - 74188
State. 74189

(2) Not later than July 31, 2007, the Director of Budget and 74190
Management shall transfer the unencumbered cash balance of the ABD 74191
Managed Care - State Fund (Fund 5BZ) to the Tobacco Use Prevention 74192
and Cessation Trust Fund (Fund H87). 74193

(C) The Department of Job and Family Services shall deposit 74194
federal reimbursement received for the Aged, Blind, and Disabled 74195
Managed Care Program into the ABD Managed Care - Federal Fund 74196
(Fund 3AZ), which is hereby created. Amounts deposited into Fund 74197
3AZ are hereby appropriated to appropriation item 600-699, ABD 74198
Managed Care - Federal. 74199

Section 206.67.24. WAIVER OF FOOD STAMP WORK REQUIREMENTS 74200

Pursuant to 7 U.S.C. 2015(o)(4)(A)(i), the Department of Job 74201
and Family Services shall request that the United States Secretary 74202
of Agriculture waive the applicability of the work requirement of 74203
7 U.S.C. 2015(o)(2) during fiscal years 2006 and 2007 to food 74204
stamp benefit recipients who reside in a county of this state that 74205
the Department determines has an unemployment rate of over 10 per 74206
cent or does not have a sufficient number of jobs to provide 74207
employment for the recipients. The Department shall make monthly 74208
determinations of which counties the waiver shall be in effect in. 74209
No individual may be exempted from the work requirements for more 74210
than a total of twelve months beginning July 1, 2005, and ending 74211
June 30, 2007. 74212

The Department shall report to the Speaker and Minority 74213
Leader of the House of Representatives and President and Minority 74214
Leader of the Senate on receipt or rejection of the waiver sought 74215
under this section. 74216

Section 206.72. JCO JUDICIAL CONFERENCE OF OHIO 74217

General Revenue Fund				74218
GRF 018-321 Operating Expenses	\$	957,000	\$ 957,000	74219
TOTAL GRF General Revenue Fund	\$	957,000	\$ 957,000	74220
General Services Fund Group				74221
403 018-601 Ohio Jury Instructions	\$	225,000	\$ 225,000	74222
TOTAL GSF General Services Fund	\$	225,000	\$ 225,000	74223
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	1,182,000	\$ 1,182,000	74224
STATE COUNCIL OF UNIFORM STATE LAWS				74225
Notwithstanding section 105.26 of the Revised Code, of the				74226
foregoing appropriation item 018-321, Operating Expenses, up to				74227
\$66,000 in fiscal year 2006 and up to \$68,000 in fiscal year 2007				74228
may be used to pay the expenses of the State Council of Uniform				74229
State Laws, including membership dues to the National Conference				74230
of Commissioners on Uniform State Laws.				74231
OHIO JURY INSTRUCTIONS FUND				74232
The Ohio Jury Instructions Fund (Fund 403) shall consist of				74233
grants, royalties, dues, conference fees, bequests, devises, and				74234
other gifts received for the purpose of supporting costs incurred				74235
by the Judicial Conference of Ohio in dispensing educational and				74236
informational data to the state's judicial system. Fund 403 shall				74237
be used by the Judicial Conference of Ohio to pay expenses				74238
incurred in dispensing educational and informational data to the				74239
state's judicial system. All moneys accruing to Fund 403 in excess				74240
of \$225,000 in fiscal year 2006 and in excess of \$225,000 in				74241
fiscal year 2007 are hereby appropriated for the purposes				74242
authorized.				74243
No money in the Ohio Jury Instructions Fund shall be				74244
transferred to any other fund by the Director of Budget and				74245
Management or the Controlling Board.				74246

Section 206.75. JSC THE JUDICIARY/SUPREME COURT				74247
General Revenue Fund				74248
GRF 005-321	Operating Expenses -	\$ 118,855,655	\$ 121,441,259	74249
	Judiciary/Supreme			
	Court			
GRF 005-401	State Criminal	\$ 328,676	\$ 343,730	74250
	Sentencing Council			
GRF 005-406	Law-Related Education	\$ 216,131	\$ 222,615	74251
GRF 005-502	Commission for Legal	\$ 435,000	\$ 875,000	74252
	Education Opportunity			
TOTAL GRF	General Revenue Fund	\$ 119,835,462	\$ 122,882,604	74253
General Services Fund Group				74254
672 005-601	Continuing Judicial	\$ 130,000	\$ 130,000	74255
	Education			
TOTAL GSF	General Services Fund	\$ 130,000	\$ 130,000	74256
Group				
Federal Special Revenue Fund Group				74257
3J0 005-603	Federal Grants	\$ 848,070	\$ 861,382	74258
TOTAL FED	Federal Special Revenue	\$ 848,070	\$ 861,382	74259
Fund Group				
State Special Revenue Fund Group				74260
4C8 005-605	Attorney Registration	\$ 3,169,774	\$ 3,264,867	74261
5T8 005-609	Grants and Awards	\$ 10,000	\$ 10,000	74262
6A8 005-606	Supreme Court	\$ 1,410,718	\$ 1,453,042	74263
	Admissions			
643 005-607	Commission on	\$ 569,203	\$ 586,261	74264
	Continuing Legal			
	Education			
TOTAL SSR	State Special Revenue	\$ 5,159,695	\$ 5,314,170	74265
Fund Group				
TOTAL ALL BUDGET FUND GROUPS		\$ 125,973,227	\$ 129,188,156	74266

LAW-RELATED EDUCATION 74267

The foregoing appropriation item 005-406, Law-Related 74268
Education, shall be distributed directly to the Ohio Center for 74269
Law-Related Education for the purposes of providing continuing 74270
citizenship education activities to primary and secondary 74271
students, expanding delinquency prevention programs, increasing 74272
activities for at-risk youth, and accessing additional public and 74273
private money for new programs. 74274

COMMISSION FOR LEGAL EDUCATION OPPORTUNITY 74275

The foregoing appropriation item 005-502, Commission for 74276
Legal Education Opportunity, shall be used to fund activities of 74277
the Commission for Legal Education Opportunity created by the 74278
Chief Justice of the Supreme Court of Ohio for purposes of 74279
assisting minority, low-income, and educationally disadvantaged 74280
college graduates in transition to legal education. Moneys 74281
appropriated to the Commission for Legal Education Opportunity may 74282
be used to establish and provide intensive course study designed 74283
to prepare eligible college graduates for law education, provide 74284
annual stipends for students who successfully complete the course 74285
of study and are admitted to and maintain satisfactory academic 74286
standing in an Ohio law school, and pay the administrative costs 74287
associated with the program. 74288

CONTINUING JUDICIAL EDUCATION 74289

The Continuing Judicial Education Fund (Fund 672) shall 74290
consist of fees paid by judges and court personnel for attending 74291
continuing education courses and other gifts and grants received 74292
for the purpose of continuing judicial education. The foregoing 74293
appropriation item 005-601, Continuing Judicial Education, shall 74294
be used to pay expenses for continuing education courses for 74295
judges and court personnel. If it is determined by the 74296
Administrative Director of the Supreme Court that additional 74297

appropriations are necessary, the amounts are hereby appropriated. 74298

No money in the Continuing Judicial Education Fund shall be 74299
transferred to any other fund by the Director of Budget and 74300
Management or the Controlling Board. Interest earned on moneys in 74301
the Continuing Judicial Education Fund shall be credited to the 74302
fund. 74303

FEDERAL GRANTS 74304

The Federal Grants Fund (Fund 3J0) shall consist of grants 74305
and other moneys awarded to the Supreme Court (The Judiciary) by 74306
the United States Government or other entities that receive the 74307
moneys directly from the United States Government and distribute 74308
those moneys to the Supreme Court (The Judiciary). The foregoing 74309
appropriation item 005-603, Federal Grants, shall be used in a 74310
manner consistent with the purpose of the grant or award. If it is 74311
determined by the Administrative Director of the Supreme Court 74312
that additional appropriations are necessary, the amounts are 74313
hereby appropriated. 74314

No money in the Federal Grants Fund shall be transferred to 74315
any other fund by the Director of Budget and Management or the 74316
Controlling Board. However, interest earned on moneys in the 74317
Federal Grants Fund shall be credited or transferred to the 74318
General Revenue Fund. 74319

ATTORNEY REGISTRATION 74320

In addition to funding other activities considered 74321
appropriate by the Supreme Court, the foregoing appropriation item 74322
005-605, Attorney Registration, may be used to compensate 74323
employees and to fund appropriate activities of the following 74324
offices established by the Supreme Court under the Rules for the 74325
Government of the Bar of Ohio: the Office of Disciplinary Counsel, 74326
the Board of Commissioners on Grievances and Discipline, the 74327
Clients' Security Fund, the Board of Commissioners on the 74328

Unauthorized Practice of Law, and the Office of Attorney 74329
Registration. If it is determined by the Administrative Director 74330
of the Supreme Court that additional appropriations are necessary, 74331
the amounts are hereby appropriated. 74332

No moneys in the Attorney Registration Fund shall be 74333
transferred to any other fund by the Director of Budget and 74334
Management or the Controlling Board. Interest earned on moneys in 74335
the Attorney Registration Fund shall be credited to the fund. 74336

GRANTS AND AWARDS 74337

The Grants and Awards Fund (Fund 5T8) shall consist of grants 74338
and other moneys awarded to the Supreme Court (The Judiciary) by 74339
the State Justice Institute, the Division of Criminal Justice 74340
Services, or other entities. The foregoing appropriation item 74341
005-609, Grants and Awards, shall be used in a manner consistent 74342
with the purpose of the grant or award. If it is determined by the 74343
Administrative Director of the Supreme Court that additional 74344
appropriations are necessary, the amounts are hereby appropriated. 74345

No moneys in the Grants and Awards Fund shall be transferred 74346
to any other fund by the Director of Budget and Management or the 74347
Controlling Board. However, interest earned on moneys in the 74348
Grants and Awards Fund shall be credited or transferred to the 74349
General Revenue Fund. 74350

SUPREME COURT ADMISSIONS 74351

The foregoing appropriation item 005-606, Supreme Court 74352
Admissions, shall be used to compensate Supreme Court employees 74353
who are primarily responsible for administering the attorney 74354
admissions program under the Rules for the Government of the Bar 74355
of Ohio, and to fund any other activities considered appropriate 74356
by the court. Moneys shall be deposited into the Supreme Court 74357
Admissions Fund (Fund 6A8) under the Supreme Court Rules for the 74358
Government of the Bar of Ohio. If it is determined by the 74359

Administrative Director of the Supreme Court that additional 74360
appropriations are necessary, the amounts are hereby appropriated. 74361

No moneys in the Supreme Court Admissions Fund shall be 74362
transferred to any other fund by the Director of Budget and 74363
Management or the Controlling Board. Interest earned on moneys in 74364
the Supreme Court Admissions Fund shall be credited to the fund. 74365

CONTINUING LEGAL EDUCATION 74366

The foregoing appropriation item 005-607, Commission on 74367
Continuing Legal Education, shall be used to compensate employees 74368
of the Commission on Continuing Legal Education established under 74369
the Supreme Court Rules for the Government of the Bar of Ohio, and 74370
to fund other activities of the commission considered appropriate 74371
by the court. If it is determined by the Administrative Director 74372
of the Supreme Court that additional appropriations are necessary, 74373
the amounts are hereby appropriated. 74374

No moneys in the Continuing Legal Education Fund shall be 74375
transferred to any other fund by the Director of Budget and 74376
Management or the Controlling Board. Interest earned on moneys in 74377
the Continuing Legal Education Fund shall be credited to the fund. 74378

Section 206.78. LEC LAKE ERIE COMMISSION 74379

State Special Revenue Fund Group 74380

4C0 780-601 Lake Erie Protection \$ 875,000 \$ 875,000 74381
Fund

5D8 780-602 Lake Erie Resources \$ 486,072 \$ 492,794 74382
Fund

TOTAL SSR State Special Revenue 74383

Fund Group \$ 1,361,072 \$ 1,367,794 74384

TOTAL ALL BUDGET FUND GROUPS \$ 1,361,072 \$ 1,367,794 74385

CASH TRANSFER 74386

Not later than the thirtieth day of November of each fiscal 74387

year, the Executive Director of the Ohio Lake Erie Office, with 74388
the approval of the Lake Erie Commission, shall certify to the 74389
Director of Budget and Management the cash balance in the Lake 74390
Erie Resources Fund (Fund 5D8) in excess of amounts needed to meet 74391
operating expenses of the Lake Erie Office. The Lake Erie Office 74392
may request the Director of Budget and Management to transfer up 74393
to the certified amount from the Lake Erie Resources Fund (Fund 74394
5D8) to the Lake Erie Protection Fund (Fund 4C0). The Director of 74395
Budget and Management may transfer the requested amount, or the 74396
Director may transfer a different amount up to the certified 74397
amount. Cash transferred shall be used for the purposes described 74398
in division (A) of section 1506.23 of the Revised Code. The amount 74399
transferred by the director is hereby appropriated to the 74400
foregoing appropriation item 780-601, Lake Erie Protection Fund, 74401
which shall be increased by the amount transferred. 74402

Section 206.81. LRS LEGAL RIGHTS SERVICE 74403

General Revenue Fund					74404
GRF 054-100 Personal Services	\$	162,281	\$	162,281	74405
GRF 054-200 Maintenance	\$	33,938	\$	33,938	74406
GRF 054-300 Equipment	\$	1,856	\$	1,856	74407
GRF 054-401 Ombudsman	\$	291,247	\$	291,247	74408
TOTAL GRF General Revenue Fund	\$	489,322	\$	489,322	74409
General Services Fund Group					74410
416 054-601 Gifts and Donations	\$	1,352	\$	1,352	74411
5M0 054-610 Settlements	\$	75,000	\$	75,000	74412
TOTAL GSF General Services					74413
Fund Group	\$	76,352	\$	76,352	74414
Federal Special Revenue Fund Group					74415
3AG 054-613 Protection and	\$	114,089	\$	114,089	74416
Advocacy - Voter					
Accessibility					

3B8	054-603	Protection and Advocacy - Mentally Ill	\$	1,059,041	\$	1,059,041	74417
3N3	054-606	Protection and Advocacy - Individual Rights	\$	550,283	\$	550,283	74418
3N9	054-607	Assistive Technology	\$	141,686	\$	141,686	74419
3R9	054-604	Family Support Collaborative	\$	50,000	\$	50,000	74420
3T2	054-609	Client Assistance Program	\$	400,553	\$	400,553	74421
3X1	054-611	Protection and Advocacy for Beneficiaries of Social Security	\$	187,784	\$	187,784	74422
3Z6	054-612	Traumatic Brain Injury	\$	65,138	\$	65,138	74423
305	054-602	Protection and Advocacy - Developmentally Disabled	\$	1,369,082	\$	1,369,082	74424
TOTAL FED Federal Special Revenue							74425
Fund Group			\$	3,937,656	\$	3,937,656	74426
State Special Revenue Fund Group							74427
5AE	054-614	Grants and Contracts	\$	75,000	\$	75,000	74428
TOTAL SSR State Special Revenue			\$	75,000	\$	75,000	74429
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	4,578,330	\$	4,578,330	74430
 Section 206.84. JLE JOINT LEGISLATIVE ETHICS COMMITTEE							74432
General Revenue Fund							74433
GRF	028-321	Legislative Ethics Committee	\$	550,000	\$	550,000	74434

TOTAL GRF General Revenue Fund	\$	550,000	\$	550,000	74435
TOTAL ALL BUDGET FUND GROUPS	\$	550,000	\$	550,000	74436

Section 206.87. LSC LEGISLATIVE SERVICE COMMISSION 74438

General Revenue Fund 74439

GRF 035-321 Operating Expenses	\$	14,770,000	\$	14,770,000	74440
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GRF 035-402 Legislative Interns	\$	1,012,000	\$	1,012,000	74441
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GRF 035-403 Legislative Budget	\$	656,427	\$	1,256,427	74442
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Office

GRF 035-404 Legislative Office of	\$	600,000	\$	0	74443
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Education Oversight

GRF 035-405 Correctional	\$	375,000	\$	390,000	74444
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Institution Inspection

Committee

GRF 035-409 National Associations	\$	445,000	\$	456,000	74445
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GRF 035-410 Legislative	\$	3,625,000	\$	3,625,000	74446
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Information Systems

TOTAL GRF General Revenue Fund	\$	21,483,427	\$	21,509,427	74447
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General Services Fund Group 74448

4F6 035-603 Legislative Budget	\$	152,000	\$	152,500	74449
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Services

410 035-601 Sale of Publications	\$	25,000	\$	25,000	74450
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TOTAL GSF General Services					74451
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Fund Group	\$	177,000	\$	177,500	74452
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TOTAL ALL BUDGET FUND GROUPS	\$	21,660,427	\$	21,686,927	74453
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ELIMINATION OF LEGISLATIVE OFFICE OF EDUCATION OVERSIGHT 74454

The Office of Legislative Office of Education Oversight shall 74455

complete statutorily required studies by December 31, 2005. On 74456

January 1, 2006, the Director of Budget and Management shall 74457

transfer the unencumbered cash balance from appropriation item 74458

035-404, Legislative Office of Education Oversight, to 74459

appropriation item 035-403, Legislative Budget Office. 74460

Section 206.90. LIB STATE LIBRARY BOARD				74461
General Revenue Fund				74462
GRF 350-321	Operating Expenses	\$ 6,398,677	\$ 6,398,677	74463
GRF 350-400	Ohio Public Library	\$ 4,230,000	\$ 4,230,000	74464
Information Network				
GRF 350-401	Ohioana Rental	\$ 124,816	\$ 124,816	74465
Payments				
GRF 350-501	Library for the	\$ 535,615	\$ 535,615	74466
Blind-Cincinnati				
GRF 350-502	Regional Library	\$ 1,010,441	\$ 1,010,441	74467
Systems				
GRF 350-503	Library for the	\$ 805,642	\$ 805,642	74468
Blind-Cleveland				
TOTAL GRF	General Revenue Fund	\$ 13,105,191	\$ 13,105,191	74469
General Services Fund Group				74470
139 350-602	Intra-Agency Service	\$ 9,000	\$ 9,000	74471
Charges				
4S4 350-604	OPLIN Technology	\$ 3,000,000	\$ 3,000,000	74472
459 350-602	Interlibrary Service	\$ 2,469,925	\$ 2,708,092	74473
Charges				
TOTAL GSF	General Services			74474
Fund Group				\$ 5,478,925 \$ 5,717,092 74475
Federal Special Revenue Fund Group				74476
313 350-601	LSTA Federal	\$ 5,643,905	\$ 5,643,905	74477
TOTAL FED	Federal Special Revenue			74478
Fund Group				\$ 5,643,905 \$ 5,643,905 74479
TOTAL ALL BUDGET FUND GROUPS		\$ 24,228,021	\$ 24,466,188	74480
OHIOANA LIBRARY ASSOCIATION OPERATING FUNDS				74481
Of the foregoing appropriation item 350-321, Operating				74482
Expenses, \$100,000 shall be used in each fiscal year to cover				74483

operating costs of the Ohioana Library Association.	74484
OHIOANA RENTAL PAYMENTS	74485
The foregoing appropriation item 350-401, Ohioana Rental	74486
Payments, shall be used to pay the rental expenses of the Martha	74487
Kinney Cooper Ohioana Library Association pursuant to section	74488
3375.61 of the Revised Code.	74489
LIBRARY FOR THE BLIND-CINCINNATI	74490
The foregoing appropriation item 350-501, Library for the	74491
Blind-Cincinnati, shall be used for the Talking Book program,	74492
which assists the blind and disabled.	74493
REGIONAL LIBRARY SYSTEMS	74494
The foregoing appropriation item 350-502, Regional Library	74495
Systems, shall be used to support regional library systems	74496
eligible for funding under sections 3375.83 and 3375.90 of the	74497
Revised Code.	74498
LIBRARY FOR THE BLIND-CLEVELAND	74499
The foregoing appropriation item 350-503, Library for the	74500
Blind-Cleveland, shall be used for the Talking Book program, which	74501
assists the blind and disabled.	74502
OHIO PUBLIC LIBRARY INFORMATION NETWORK	74503
The foregoing appropriation items 350-604, OPLIN Technology,	74504
and 350-400, Ohio Public Library Information Network, shall be	74505
used for an information telecommunications network linking public	74506
libraries in the state and such others as may be certified as	74507
participants by the Ohio Public Library Information Network Board.	74508
The Ohio Public Library Information Network Board shall	74509
consist of eleven members appointed by the State Library Board	74510
from among the staff of public libraries and past and present	74511
members of boards of trustees of public libraries, based on the	74512

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				74557
043 970-321 Operating Expenses	\$	781,181	\$ 803,348	74558
TOTAL LCF Liquor Control Fund Group	\$	781,181	\$ 803,348	74559
TOTAL ALL BUDGET FUND GROUPS	\$	781,181	\$ 803,348	74560

Section 206.96. LOT STATE LOTTERY COMMISSION

General Services Fund Group				74563
231 950-604 Charitable Gaming	\$	1,200,000	\$ 1,200,000	74564
Oversight				
TOTAL GSF General Services Fund	\$	1,200,000	\$ 1,200,000	74565
Group				
State Lottery Fund Group				74566
044 950-100 Personal Services	\$	24,969,422	\$ 25,457,016	74567
044 950-200 Maintenance	\$	17,642,894	\$ 17,954,156	74568
044 950-300 Equipment	\$	2,517,533	\$ 2,494,718	74569
044 950-402 Game and Advertising	\$	70,524,000	\$ 70,024,000	74570
Contracts				
044 950-500 Problem Gambling	\$	335,000	\$ 335,000	74571
Subsidy				

044 950-601 Prizes, Bonuses, and	\$	150,952,466	\$	147,716,286	74572
Commissions					
871 950-602 Annuity Prizes	\$	148,680,031	\$	138,918,557	74573
TOTAL SLF State Lottery Fund					74574
Group	\$	415,621,346	\$	402,899,733	74575
TOTAL ALL BUDGET FUND GROUPS	\$	416,821,346	\$	404,099,733	74576

OPERATING EXPENSES 74577

Notwithstanding sections 127.14 and 131.35 of the Revised 74578
Code, the Controlling Board may, at the request of the State 74579
Lottery Commission, authorize additional appropriations for 74580
operating expenses of the State Lottery Commission from the State 74581
Lottery Fund up to a maximum of 15 per cent of anticipated total 74582
revenue accruing from the sale of lottery tickets. 74583

PRIZES, BONUSES, AND COMMISSIONS 74584

Any amounts, in addition to the amounts appropriated in 74585
appropriation item 950-601, Prizes, Bonuses, and Commissions, that 74586
the Director of the State Lottery Commission determines to be 74587
necessary to fund prizes, bonuses, and commissions are hereby 74588
appropriated. 74589

ANNUITY PRIZES 74590

With the approval of the Office of Budget and Management, the 74591
State Lottery Commission shall transfer cash from the State 74592
Lottery Fund Group (Fund 044) to the Deferred Prizes Trust Fund 74593
(Fund 871) in an amount sufficient to fund deferred prizes. The 74594
Treasurer of State, from time to time, shall credit the Deferred 74595
Prizes Trust Fund (Fund 871) the pro rata share of interest earned 74596
by the Treasurer of State on invested balances. 74597

Any amounts, in addition to the amounts appropriated in 74598
appropriation item 950-602, Annuity Prizes, that the Director of 74599
the State Lottery Commission determines to be necessary to fund 74600
deferred prizes and interest earnings are hereby appropriated. 74601

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND 74602

The Ohio Lottery Commission shall transfer an amount greater 74603
than or equal to \$637,900,000 in fiscal year 2006 and \$637,900,000 74604
in fiscal year 2007 to the Lottery Profits Education Fund. 74605
Transfers from the Commission to the Lottery Profits Education 74606
Fund shall represent the estimated net income from operations for 74607
the Commission in fiscal year 2006 and fiscal year 2007. Transfers 74608
by the Commission to the Lottery Profits Education Fund shall be 74609
administered as the statutes direct. 74610

Section 206.99. MHC MANUFACTURED HOMES COMMISSION 74611

General Services Fund Group 74612
4K9 996-609 Operating Expenses \$ 272,500 \$ 0 74613
TOTAL GSF General Services 74614
Fund Group \$ 272,500 \$ 0 74615
TOTAL ALL BUDGET FUND GROUPS \$ 272,500 \$ 0 74616

INCREASED APPROPRIATION THROUGH CONTROLLING BOARD 74617

The Manufactured Homes Commission shall seek Controlling 74618
Board approval in fiscal year 2006 for a planned increase of at 74619
least \$356,250 in appropriation item 996-609, Operating Expenses. 74620

Section 209.01. DOM DEPARTMENT OF OHIO MEDICAID 74621

General Revenue Fund 74622
GRF 450-425 Office of Ohio Health 74623
Plans
State \$ 24,803,631 \$ 24,054,873 74624
Federal \$ 26,539,544 \$ 25,810,409 74625
Office of Ohio Health \$ 51,343,175 \$ 49,865,282 74626
Plans Total
GRF 450-525 Health Care/Medicaid 74627
State \$ 3,781,842,629 \$ 3,820,340,675 74628

Federal	\$ 5,659,250,287	\$ 5,768,292,576	74629
Health Care Total	\$ 9,441,092,916	\$ 9,588,633,251	74630
GRF 450-526 Medicare Part D	\$ 155,349,266	\$ 339,578,325	74631
Total GRF General Revenue Fund			74632
State	\$ 3,961,995,526	\$ 4,183,973,873	74633
Federal	\$ 5,685,789,831	\$ 5,794,102,985	74634
GRF Total	\$ 9,647,785,357	\$ 9,978,076,858	74635
TOTAL ALL BUDGET FUND GROUPS	\$ 9,647,785,357	\$ 9,978,076,858	74636

Section 209.01.03. MEDICAID APPROPRIATIONS 74638

The foregoing appropriation items 450-425, Office of Ohio 74639
 Health Plans, 450-525, Health Care/Medicaid, and 450-526, Medicare 74640
 Part D, shall be used by the Department of Job and Family Services 74641
 for the Ohio Medicaid program. 74642

Section 209.01.06. HEALTH CARE/MEDICAID 74643

The foregoing appropriation item 450-525, Health 74644
 Care/Medicaid, shall not be limited by section 131.33 of the 74645
 Revised Code. 74646

Section 209.01.09. MEDICARE PART D 74647

The foregoing appropriation item 450-526, Medicare Part D, 74648
 may be used by the Department of Job and Family Services for the 74649
 implementation and operation of the Medicare Part D requirements 74650
 contained in the "Medicare Prescription Drug, Improvement, and 74651
 Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon 74652
 the request of the Department of Job and Family Services, the 74653
 Director of Budget and Management may increase the state share of 74654
 appropriations in either appropriation item 450-525, Health 74655
 Care/Medicaid, or appropriation item 450-526, Medicare Part D, 74656
 with a corresponding decrease in the state share of the other 74657
 appropriation item to allow the Department of Job and Family 74658

Services to implement and operate the new Medicare Part D 74659
 requirements. If the state share of appropriation item 450-525, 74660
 Health Care/Medicaid, is adjusted, the Director of Budget and 74661
 Management shall adjust the federal share accordingly. 74662

Section 209.03. MED STATE MEDICAL BOARD 74663

General Services Fund Group 74664
 5C6 883-609 Operating Expenses \$ 7,467,317 \$ 7,467,317 74665
 TOTAL GSF General Services 74666
 Fund Group \$ 7,467,317 \$ 7,467,317 74667
 TOTAL ALL BUDGET FUND GROUPS \$ 7,467,317 \$ 7,467,317 74668

Section 209.04. AMB MEDICAL TRANSPORTATION BOARD 74670

General Services Fund Group 74671
 4N1 915-601 Operating Expenses \$ 388,450 \$ 0 74672
 TOTAL GSF General Services 74673
 Fund Group \$ 388,450 \$ 0 74674
 TOTAL ALL BUDGET FUND GROUPS \$ 388,450 \$ 0 74675

Section 209.06. DMH DEPARTMENT OF MENTAL HEALTH 74677

General Services Fund Group 74678
 151 235-601 General Administration \$ 89,614,180 \$ 93,898,713 74679
 TOTAL ISF Intragovernmental 74680
 Service Fund Group \$ 89,614,180 \$ 93,898,713 74681
 Division of Mental Health-- 74682
 Psychiatric Services to Correctional Facilities 74683
 General Revenue Fund 74684
 GRF 332-401 Forensic Services \$ 4,338,858 \$ 4,338,858 74685
 TOTAL GRF General Revenue Fund \$ 4,338,858 \$ 4,338,858 74686

FORENSIC SERVICES 74687

The foregoing appropriation item 332-401, Forensic Services, 74688

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	74714
GRF 333-402	Resident Trainees	\$	1,364,919	\$	1,364,919	74715
GRF 333-403	Pre-Admission	\$	650,135	\$	650,135	74716
	Screening Expenses					
GRF 333-415	Lease-Rental Payments	\$	23,296,200	\$	23,833,600	74717
GRF 333-416	Research Program	\$	1,001,551	\$	1,001,551	74718
	Evaluation					

TOTAL GRF General Revenue Fund	\$	50,166,474	\$	50,703,874	74719
General Services Fund Group					74720
149 333-609 Central Office Rotary	\$	883,773	\$	893,786	74721
- Operating					
TOTAL General Services Fund Group	\$	883,773	\$	893,786	74722
Federal Special Revenue Fund Group					74723
3A6 333-608 Community & Hospital	\$	65,000	\$	0	74724
Services					
3A8 333-613 Federal Grant -	\$	562,417	\$	512,417	74725
Administration					
3A9 333-614 Mental Health Block	\$	748,740	\$	748,470	74726
Grant					
3B1 333-635 Community Medicaid	\$	3,671,537	\$	3,691,683	74727
Expansion					
324 333-605 Medicaid/Medicare	\$	150,000	\$	150,000	74728
TOTAL Federal Special Revenue					74729
Fund Group	\$	5,197,694	\$	5,102,570	74730
State Special Revenue Fund Group					74731
4X5 333-607 Behavioral Health	\$	3,000,634	\$	3,000,634	74732
Medicaid Services					
485 333-632 Mental Health	\$	134,233	\$	134,233	74733
Operating					
TOTAL State Special Revenue					74734
Fund Group	\$	3,134,867	\$	3,134,867	74735
TOTAL ALL BUDGET FUND GROUPS	\$	59,382,808	\$	59,835,097	74736

RESIDENCY TRAINEESHIP PROGRAMS 74737

The foregoing appropriation item 333-402, Resident Trainees, 74738
shall be used to fund training agreements entered into by the 74739
Department of Mental Health for the development of curricula and 74740
the provision of training programs to support public mental health 74741
services. 74742

PRE-ADMISSION SCREENING EXPENSES 74743

The foregoing appropriation item 333-403, Pre-Admission 74744
Screening Expenses, shall be used to pay for costs to ensure that 74745
uniform statewide methods for pre-admission screening are in place 74746
to perform assessments for persons in need of mental health 74747
services or for whom institutional placement in a hospital or in 74748
another inpatient facility is sought. Pre-admission screening 74749
includes the following activities: pre-admission assessment, 74750
consideration of continued stay requests, discharge planning and 74751
referral, and adjudication of appeals and grievance procedures. 74752

LEASE-RENTAL PAYMENTS 74753

The foregoing appropriation item 333-415, Lease-Rental 74754
Payments, shall be used to meet all payments at the times they are 74755
required to be made during the period from July 1, 2005, to June 74756
30, 2007, by the Department of Mental Health under leases and 74757
agreements made under section 154.20 of the Revised Code, but 74758
limited to the aggregate amount of \$47,129,800. Nothing in this 74759
act shall be deemed to contravene the obligation of the state to 74760
pay, without necessity for further appropriation, from the sources 74761
pledged thereto, the bond service charges on obligations issued 74762
under section 154.20 of the Revised Code. 74763

BEHAVIORAL HEALTH MEDICAID SERVICES 74764

The Department of Mental Health shall administer specified 74765
Medicaid Services as delegated by the Department of Job and Family 74766
Services in an interagency agreement. The foregoing appropriation 74767
item 333-607, Behavioral Health Medicaid Services, may be used to 74768
make payments for free-standing psychiatric hospital inpatient 74769
services as defined in an interagency agreement with the 74770
Department of Job and Family Services. 74771

Section 209.06.03. DIVISION OF MENTAL HEALTH - HOSPITALS 74772

General Revenue Fund				74773
GRF 334-408 Community and Hospital	\$ 390,424,545	\$ 400,324,545		74774
Mental Health Services				
GRF 334-506 Court Costs	\$ 976,652	\$ 976,652		74775
TOTAL GRF General Revenue Fund	\$ 391,401,197	\$ 401,301,197		74776
General Services Fund Group				74777
149 334-609 Hospital Rotary -	\$ 24,408,053	\$ 24,408,053		74778
Operating Expenses				
150 334-620 Special Education	\$ 120,930	\$ 120,930		74779
TOTAL GSF General Services				74780
Fund Group	\$ 24,528,983	\$ 24,528,983		74781
Federal Special Revenue Fund Group				74782
3A6 334-608 Subsidy for Federal	\$ 586,224	\$ 586,224		74783
Grants				
3A8 334-613 Federal Letter of	\$ 200,000	\$ 200,000		74784
Credit				
3B0 334-617 Elementary and	\$ 171,930	\$ 178,807		74785
Secondary Education				
Act				
3B1 334-635 Hospital Medicaid	\$ 2,000,000	\$ 2,000,000		74786
Expansion				
324 334-605 Medicaid/Medicare	\$ 11,764,280	\$ 11,873,408		74787
TOTAL FED Federal Special Revenue				74788
Fund Group	\$ 14,722,434	\$ 14,838,439		74789
State Special Revenue Fund Group				74790
485 334-632 Mental Health	\$ 2,476,297	\$ 2,476,297		74791
Operating				
692 334-636 Community Mental	\$ 80,000	\$ 80,000		74792
Health Board Risk Fund				
TOTAL SSR State Special Revenue				74793
Fund Group	\$ 2,556,297	\$ 2,556,297		74794
TOTAL ALL BUDGET FUND GROUPS	\$ 433,208,911	\$ 443,224,916		74795

COMMUNITY MENTAL HEALTH BOARD RISK FUND				74796	
The foregoing appropriation item 334-636, Community Mental				74797	
Health Board Risk Fund, shall be used to make payments under				74798	
section 5119.62 of the Revised Code.				74799	
Section 209.06.06. DIVISION OF MENTAL HEALTH - COMMUNITY				74800	
SUPPORT SERVICES				74801	
General Revenue Fund				74802	
GRF 335-404 Behavioral Health	\$	6,365,265	\$	7,365,265	74803
Services-Children					
GRF 335-405 Family & Children	\$	1,760,000	\$	1,760,000	74804
First					
GRF 335-419 Community Medication	\$	7,959,798	\$	7,959,798	74805
Subsidy					
GRF 335-505 Local Mental Health	\$	94,687,868	\$	99,687,868	74806
Systems of Care					
TOTAL GRF General Revenue Fund	\$	110,772,931	\$	116,772,931	74807
General Services Fund Group					74808
4P9 335-604 Community Mental	\$	250,000	\$	250,000	74809
Health Projects					
TOTAL GSF General Services					74810
Fund Group	\$	250,000	\$	250,000	74811
Federal Special Revenue Fund Group					74812
3A6 335-608 Federal Miscellaneous	\$	1,089,699	\$	678,699	74813
3A7 335-612 Social Services Block	\$	8,657,288	\$	8,657,288	74814
Grant					
3A8 335-613 Federal Grant -	\$	2,407,040	\$	2,407,040	74815
Community Mental					
Health Board Subsidy					
3A9 335-614 Mental Health Block	\$	14,969,400	\$	14,969,400	74816
Grant					

3B1 335-635 Community Medicaid	\$	264,088,404	\$	282,807,902	74817
Expansion					
TOTAL FED Federal Special Revenue	\$	291,211,831	\$	309,520,329	74818
Fund Group					
State Special Revenue Fund Group					74819
632 335-616 Community Capital	\$	350,000	\$	350,000	74820
Replacement					
TOTAL SSR State Special Revenue	\$	350,000	\$	350,000	74821
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	402,584,762	\$	426,893,260	74822
DEPARTMENT TOTAL					74823
GENERAL REVENUE FUND	\$	556,679,460	\$	573,116,860	74824
DEPARTMENT TOTAL					74825
GENERAL SERVICES FUND GROUP	\$	115,276,926	\$	119,571,482	74826
DEPARTMENT TOTAL					74827
FEDERAL SPECIAL REVENUE					74828
FUND GROUP	\$	311,131,959	\$	329,461,338	74829
DEPARTMENT TOTAL					74830
STATE SPECIAL REVENUE FUND GROUP	\$	6,041,164	\$	6,041,164	74831
DEPARTMENT TOTAL					74832
TOTAL DEPARTMENT OF MENTAL HEALTH	\$	989,129,519	\$	1,028,190,844	74833

Section 209.06.09. COMMUNITY MEDICATION SUBSIDY 74835

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 74841

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. 74845
74846

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. 74847
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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. 74851
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BEHAVIORAL HEALTH - CHILDREN 74853

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. 74854
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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: 74859
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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; 74871
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74873
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(B) At least one person representing local public children's services agencies;	74875 74876
(C) At least one person representing juvenile courts;	74877
(D) At least one person representing local Alcohol, Drug Addiction, and Mental Health Boards; Community Mental Health Boards; and Alcohol and Drug Addiction Boards;	74878 74879 74880
(E) At least one person representing local Family and Children First Council Coordinators;	74881 74882
(F) At least one family representative.	74883
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:	74884 74885 74886 74887 74888
(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;	74889 74890 74891 74892 74893 74894
(B) Assuring that families are included in all service planning activities and have access to advocates to assist them if they choose;	74895 74896 74897
(C) Implementation of home-based services and other alternatives to out-of-home placement;	74898 74899
(D) Assuring that all individual service plans for children and their families address the academic achievement of the child;	74900 74901
(E) Coordinating the most efficient and effective use of federal, state, and local funds to meet the needs of children and their families.	74902 74903 74904

Funds may be used to support the following services and 74905
activities: 74906

(A) Mental health services provided by the Ohio Department of 74907
Mental Health certified agencies and alcohol and other drug 74908
services provided by Department of Alcohol and Drug Addiction 74909
Services certified agencies; 74910

(B) Services and supports for children and their families 74911
that further the implementation of their individual service plans; 74912

(C) Treatment services in out-of-home settings, including 74913
residential facilities, when other alternatives are not available 74914
or feasible; 74915

(D) Administrative support for efforts associated with this 74916
initiative; 74917

(E) These funds shall not be used to supplant existing 74918
efforts. 74919

The Ohio Family and Children First Cabinet Council appointed 74920
team shall approve the plans for local behavioral health services 74921
and ensure the plans are components of and properly coordinated 74922
with the county service coordination plan as defined in section 74923
121.37 of the Revised Code. In addition to approving the plans for 74924
new behavioral health funding, this team shall design a mechanism 74925
to provide technical assistance to local communities, monitor the 74926
plans, and may, as part of the monitoring role, conduct site 74927
visits. 74928

Of the foregoing appropriation item 335-404, Behavioral 74929
Health Services-Children, an amount up to \$1.0 million in fiscal 74930
year 2006 and \$1.0 million in fiscal year 2007 shall be used to 74931
support at least three demonstration projects, as determined by 74932
the Ohio Family and Children First Cabinet Council, in select 74933
areas around the state to focus on improving behavioral health 74934

services for children involved in the child welfare and juvenile 74935
justice systems. At least one of these demonstration projects 74936
shall focus on services for adolescent girls that are involved in 74937
or at risk of involvement with the juvenile justice system. 74938

Section 209.09. DMR DEPARTMENT OF MENTAL RETARDATION AND 74939
DEVELOPMENTAL DISABILITIES 74940

Section 209.09.03. GENERAL ADMINISTRATION AND STATEWIDE 74941
SERVICES 74942

General Revenue Fund 74943

GRF 320-321 Central Administration \$ 9,357,877 \$ 9,357,874 74944

GRF 320-412 Protective Services \$ 2,463,000 \$ 2,463,000 74945

GRF 320-415 Lease-Rental Payments \$ 23,296,200 \$ 23,833,600 74946

TOTAL GRF General Revenue Fund \$ 35,117,077 \$ 35,654,474 74947

General Services Fund Group 74948

4B5 320-640 Conference/Training \$ 300,000 \$ 300,000 74949

TOTAL GSF General Services 74950

Fund Group \$ 300,000 \$ 300,000 74951

Federal Special Revenue Fund Group 74952

3A4 320-605 Administrative Support \$ 13,492,892 \$ 13,492,892 74953

3A5 320-613 DD Council Operating \$ 895,440 \$ 895,440 74954

Expenses 74955

325 320-634 Protective Services \$ 100,000 \$ 100,000 74956

TOTAL FED Federal Special Revenue 74957

Fund Group \$ 14,488,332 \$ 14,488,332 74958

State Special Revenue Fund Group 74959

5S2 590-622 Medicaid \$ 8,000,000 \$ 8,000,000 74960

Administration &

Oversight

TOTAL SSR State Special Revenue 74961

Fund Group \$ 8,000,000 \$ 8,000,000 74962

TOTAL ALL GENERAL ADMINISTRATION				74963
AND STATEWIDE SERVICES				74964
BUDGET FUND GROUPS	\$	57,905,409	\$ 58,442,806	74965
LEASE-RENTAL PAYMENTS				74966
The foregoing appropriation item 320-415, Lease-Rental				74967
Payments, shall be used to meet all payments at the times they are				74968
required to be made during the period from July 1, 2005, to June				74969
30, 2007, by the Department of Mental Retardation and				74970
Developmental Disabilities under leases and agreements made under				74971
section 154.20 of the Revised Code, but limited to the aggregate				74972
amount of \$47,129,800. Nothing in this act shall be deemed to				74973
contravene the obligation of the state to pay, without necessity				74974
for further appropriation, from the sources pledged thereto, the				74975
bond service charges on obligations issued under section 154.20 of				74976
the Revised Code.				74977
Section 209.09.06. COMMUNITY SERVICES				74978
General Revenue Fund				74979
GRF 322-405 State Use Program	\$	268,040	\$ 268,040	74980
GRF 322-413 Residential and	\$	7,423,021	\$ 7,423,021	74981
Support Services				
GRF 322-416 Waiver State Match	\$	103,090,738	\$ 104,397,504	74982
GRF 322-417 Supported Living	\$	43,160,198	\$ 43,160,198	74983
GRF 322-451 Family Support	\$	6,938,898	\$ 6,938,898	74984
Services				
GRF 322-452 Service and Support	\$	8,672,730	\$ 8,672,730	74985
Administration				
GRF 322-501 County Boards	\$	32,193,542	\$ 32,193,542	74986
Subsidies				
GRF 322-503 Tax Equity	\$	14,500,000	\$ 14,500,000	74987
TOTAL GRF General Revenue Fund	\$	216,247,167	\$ 217,553,933	74988
General Services Fund Group				74989

4U4	322-606	Community MR and DD Trust	\$	300,000	\$	50,000	74990
4V1	322-611	Family and Children First	\$	625,000	\$	625,000	74991
488	322-603	Provider Audit Refunds	\$	350,000	\$	350,000	74992
TOTAL GSF General Services							74993
Fund Group			\$	1,275,000	\$	1,025,000	74994
Federal Special Revenue Fund Group							74995
3A4	322-605	Community Program Support	\$	1,500,000	\$	1,500,000	74996
3A5	322-613	DD Council Grants	\$	3,204,240	\$	3,204,240	74997
3G6	322-639	Medicaid Waiver	\$	373,772,814	\$	373,772,814	74998
3M7	322-650	CAFS Medicaid	\$	125,924,299	\$	103,773,730	74999
325	322-608	Grants for Infants and Families with Disabilities	\$	1,763,165	\$	1,763,165	75000
325	322-612	Community Social Service Programs	\$	11,500,000	\$	11,500,000	75001
TOTAL FED Federal Special Revenue							75002
Fund Group			\$	517,664,518	\$	495,513,949	75003
State Special Revenue Fund Group							75004
4K8	322-604	Waiver - Match	\$	12,000,000	\$	12,000,000	75005
5H0	322-619	Medicaid Repayment	\$	25,000	\$	25,000	75006
5Z1	322-624	County Board Waiver Match	\$	82,000,000	\$	82,000,000	75007
TOTAL SSR State Special Revenue							75008
Fund Group			\$	94,025,000	\$	94,025,000	75009
TOTAL ALL COMMUNITY SERVICES							75010
BUDGET FUND GROUPS			\$	829,211,685	\$	808,117,882	75011
RESIDENTIAL AND SUPPORT SERVICES							75012
The Department of Mental Retardation and Developmental Disabilities may designate a portion of appropriation item							75013
							75014

322-413, Residential and Support Services, for the following: 75015

(A) Sermak Class Services used to implement the requirements 75016
of the agreement settling the consent decree in *Sermak v. Manuel*, 75017
Case No. c-2-80-220, United States District Court for the Southern 75018
District of Ohio, Eastern Division; 75019

(B) Medicaid-reimbursed programs other than home and 75020
community-based waiver services, in an amount not to exceed 75021
\$1,000,000 in each fiscal year, that enable persons with mental 75022
retardation and developmental disabilities to live in the 75023
community. 75024

WAIVER STATE MATCH 75025

The purposes for which the foregoing appropriation item 75026
322-416, Waiver State Match, shall be used include the following: 75027

(A) Home and community-based waiver services under Title XIX 75028
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 75029
as amended. 75030

(B) Services contracted by county boards of mental 75031
retardation and developmental disabilities. 75032

(C) To pay the nonfederal share of the cost of one or more 75033
new intermediate-care-facility-for-the-mentally-retarded certified 75034
beds in a county where the county board of mental retardation and 75035
developmental disabilities does not initiate or support the 75036
development or certification of such beds, if the Director of 75037
Mental Retardation and Developmental Disabilities is required by 75038
this act to transfer to the Director of Job and Family Services 75039
funds to pay such nonfederal share. 75040

The Department of Mental Retardation and Developmental 75041
Disabilities may designate a portion of appropriation item 75042
322-416, Waiver State Match, to county boards of mental 75043
retardation and developmental disabilities that have greater need 75044

for various residential and support services because of a low 75045
percentage of residential and support services development in 75046
comparison to the number of individuals with mental retardation or 75047
developmental disabilities in the county. 75048

Of the foregoing appropriation item 322-416, Waiver State 75049
Match, \$9,850,000 in each year of the biennium shall be 75050
distributed by the Department to county boards of mental 75051
retardation and developmental disabilities to support existing 75052
residential facilities waiver and individual options waiver 75053
related to Medicaid activities provided for in the component of a 75054
county board's plan developed under division (A)(2) of section 75055
5126.054 of the Revised Code and approved under section 5123.046 75056
of the Revised Code. Up to \$3,000,000 of these funds in each 75057
fiscal year may be used to implement day-to-day program management 75058
services under division (A)(2) of section 5126.054 of the Revised 75059
Code. Up to \$4,200,000 in each fiscal year may be used to 75060
implement the program and health and welfare requirements of 75061
division (A)(2) of section 5126.054 of the Revised Code. 75062

In fiscal years 2006 and 2007 not less than \$2,650,000 of 75063
these funds shall be used to recruit and retain, under division 75064
(A)(2) of section 5126.054 of the Revised Code, the direct care 75065
staff necessary to implement the services included in an 75066
individualized service plan in a manner that ensures the health 75067
and welfare of the individuals being served. 75068

The method utilized by the department to determine each 75069
residential facilities waiver and individual options provider's 75070
allocation of such funds in fiscal year 2005 shall be used for 75071
allocation purposes to such providers in fiscal years 2006 and 75072
2007, respectively. 75073

SUPPORTED LIVING 75074

The purposes for which the foregoing appropriation item 75075

322-417, Supported Living, shall be used include supported living 75076
services contracted by county boards of mental retardation and 75077
developmental disabilities under sections 5126.40 to 5126.47 of 75078
the Revised Code and paying the nonfederal share of the cost of 75079
one or more new 75080
intermediate-care-facility-for-the-mentally-retarded certified 75081
beds in a county where the county board of mental retardation and 75082
developmental disabilities does not initiate or support the 75083
development or certification of such beds, if the Director of 75084
Mental Retardation and Developmental Disabilities is required by 75085
this act to transfer to the Director of Job and Family Services 75086
funds to pay such nonfederal share. 75087

OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS 75088

Notwithstanding Chapters 5123. and 5126. of the Revised Code, 75089
the Department of Mental Retardation and Developmental 75090
Disabilities may develop residential and support service programs 75091
funded by appropriation item 322-413, Residential and Support 75092
Services; appropriation item 322-416, Waiver State Match; or 75093
appropriation item 322-417, Supported Living, that enable persons 75094
with mental retardation and developmental disabilities to live in 75095
the community. Notwithstanding Chapter 5121. and section 5123.122 75096
of the Revised Code, the Department may waive the support 75097
collection requirements of those statutes for persons in community 75098
programs developed by the Department under this section. The 75099
Department shall adopt rules under Chapter 119. of the Revised 75100
Code or may use existing rules for the implementation of these 75101
programs. 75102

FAMILY SUPPORT SERVICES 75103

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 75104
5126.11 of the Revised Code, the Department of Mental Retardation 75105
and Developmental Disabilities may implement programs funded by 75106

appropriation item 322-451, Family Support Services, to provide 75107
assistance to persons with mental retardation or developmental 75108
disabilities and their families who are living in the community. 75109
The department shall adopt rules to implement these programs. The 75110
department may also use the foregoing appropriation item 322-451, 75111
Family Support Services, to pay the nonfederal share of the cost 75112
of one or more new 75113
intermediate-care-facility-for-the-mentally-retarded certified 75114
beds in a county where the county board of mental retardation and 75115
developmental disabilities initiates or supports the development 75116
or certification of such beds, if the Director of Mental 75117
Retardation and Developmental Disabilities is required by this act 75118
to transfer to the Director of Job and Family Services funds to 75119
pay such nonfederal share. 75120

SERVICE AND SUPPORT ADMINISTRATION 75121

The foregoing appropriation item 322-452, Service and Support 75122
Administration, shall be allocated to county boards of mental 75123
retardation and developmental disabilities for the purpose of 75124
providing service and support administration services and to 75125
assist in bringing state funding for all department-approved 75126
service and support administrators within county boards of mental 75127
retardation and developmental disabilities to the level authorized 75128
in division (C) of section 5126.15 of the Revised Code. The 75129
department may request approval from the Controlling Board to 75130
transfer any unobligated appropriation authority from other state 75131
General Revenue Fund appropriation items within the department's 75132
budget to appropriation item 322-452, Service and Support 75133
Administration, to be used to meet the statutory funding level in 75134
division (C) of section 5126.15 of the Revised Code. 75135

Notwithstanding division (C) of section 5126.15 of the 75136
Revised Code and subject to funding in appropriation item 322-452, 75137
Service and Support Administration, no county may receive less 75138

than its allocation in fiscal year 1995. Wherever case management 75139
services are referred to in any law, contract, or other document, 75140
the reference shall be deemed to refer to service and support 75141
administration. No action or proceeding pending on the effective 75142
date of this section is affected by the renaming of case 75143
management services as service and support administration. 75144

The Department of Mental Retardation and Developmental 75145
Disabilities shall adopt, amend, and rescind rules as necessary to 75146
reflect the renaming of case management services as service and 75147
support administration. All boards of mental retardation and 75148
developmental disabilities and the entities with which they 75149
contract for services shall rename the titles of their employees 75150
who provide service and support administration. All boards and 75151
contracting entities shall make corresponding changes to all 75152
employment contracts. 75153

The Department also may use the foregoing appropriation item 75154
322-452, Service and Support Administration, to pay the nonfederal 75155
share of the cost of one or more new 75156
intermediate-care-facility-for-the-mentally-retarded certified 75157
beds in a county where the county board of mental retardation and 75158
developmental disabilities initiates or supports the development 75159
or certification of such beds, if the Director of Mental 75160
Retardation and Developmental Disabilities is required by this act 75161
to transfer to the Director of Job and Family Services funds to 75162
pay such nonfederal share. 75163

STATE SUBSIDIES TO MR/DD BOARDS 75164

The foregoing appropriation item 322-501, County Boards 75165
Subsidies, shall be distributed to county boards of mental 75166
retardation and developmental disabilities under section 5126.12 75167
of the Revised Code to the limit of the lesser of the amount 75168
required by that section or the appropriation in appropriation 75169

item 322-501, County Boards Subsidies, prorated to all county boards of mental retardation and developmental disabilities. 75170
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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. 75172
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WAIVER - MATCH 75182

The foregoing appropriation item 322-604, Waiver - Match (Fund 4K8), shall be used as state matching funds for the home and community-based waivers. 75183
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COUNTY BOARD WAIVER MATCH 75186

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.) 75187
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Section 209.09.09. COMMUNITY ALTERNATIVE FUNDING SYSTEM 75195

(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. 75196
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75198

(B) The Department of Mental Retardation and Developmental 75199

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 75229
 Disabilities shall pay the Department of Job and Family Services 75230
 quarterly, through intrastate transfer voucher, the nonfederal 75231
 share of Medicaid prescription drug claim costs for all 75232
 developmental centers paid by the Department of Job and Family 75233
 Services. 75234

Section 209.09.18. RESIDENTIAL FACILITIES 75235

General Revenue Fund 75236

GRF 323-321 Residential Facilities \$ 101,764,366 \$ 100,457,600 75237

Operations 75238

TOTAL GRF General Revenue Fund \$ 101,764,366 \$ 100,457,600 75239

General Services Fund Group 75240

152 323-609 Residential Facilities \$ 912,177 \$ 912,177 75241

Support 75242

TOTAL GSF General Services 75243

Fund Group \$ 912,177 \$ 912,177 75244

Federal Special Revenue Fund Group 75245

3A4 323-605 Developmental Center \$ 120,000,000 \$ 120,000,000 75246

Operation Expenses

325 323-608 Foster Grandparent \$ 575,000 \$ 575,000 75247

Program

TOTAL FED Federal Special Revenue 75248

Fund Group \$ 120,575,000 \$ 120,575,000 75249

State Special Revenue Fund Group 75250

221 322-620 Supplement Service \$ 150,000 \$ 150,000 75251

Trust

489 323-632 Developmental Center \$ 12,125,628 \$ 12,125,628 75252

Direct Care Support

TOTAL SSR State Special Revenue 75253

Fund Group \$ 12,275,628 \$ 12,275,628 75254

TOTAL ALL RESIDENTIAL FACILITIES				75255	
BUDGET FUND GROUPS	\$	235,527,171	\$	234,220,405	75256
DEPARTMENT TOTAL				75257	
GENERAL REVENUE FUND	\$	353,128,610	\$	353,666,007	75258
DEPARTMENT TOTAL				75259	
GENERAL SERVICES FUND GROUP	\$	2,487,177	\$	2,237,177	75260
DEPARTMENT TOTAL				75261	
FEDERAL SPECIAL REVENUE FUND GROUP	\$	652,727,850	\$	630,577,281	75262
DEPARTMENT TOTAL				75263	
STATE SPECIAL REVENUE FUND GROUP	\$	114,300,628	\$	114,300,628	75264
TOTAL DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES		\$ 1,122,644,265	\$	1,100,781,093	75267

Section 209.09.21. (A) As used in this section: 75269

(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. 75270
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75273

(2) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code. 75274
75275

(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: 75276
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(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 75283
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75286

Developmental Disabilities for home and community-based services 75287
and supported living for which the Director is authorized to make 75288
allocations to county boards; 75289

(2) If the beds are located in a county served by a county 75290
board that initiates or supports the beds' certification, funds 75291
appropriated to the Department for family support services, 75292
service and support administration, and other services for which 75293
the Director is authorized to make allocations to counties. 75294

(C) The funds that the Director transfers under division 75295
(B)(2) of this section shall be funds that the Director has 75296
allocated to the county board serving the county in which the beds 75297
are located unless the amount of the allocation is insufficient to 75298
pay the entire nonfederal share of the cost under the Medicaid 75299
Program for those beds. If the allocation is insufficient, the 75300
Director shall use as much of such funds allocated to other 75301
counties as is needed to make up the difference. 75302

Section 209.09.24. HABILITATION CENTERS PROVIDING MEDICAID 75303
CASE MANAGEMENT SERVICES 75304

A habilitation center holding on June 30, 2005, a valid 75305
certificate issued under former section 5123.041 of the Revised 75306
Code may provide Medicaid case management services until the 75307
earlier of the following: 75308

(A) The date the United States Secretary of Health and Human 75309
Services approves an amendment to the state Medicaid plan that 75310
provides that only county boards of mental retardation and 75311
developmental disabilities may provide Medicaid case management 75312
services; 75313

(B) The habilitation center ceases to meet the requirements 75314
that were in effect on June 30, 2005, for the certificate issued 75315
under former section 5123.041 of the Revised Code. 75316

Section 209.12. MIH COMMISSION ON MINORITY HEALTH				75317
General Revenue Fund				75318
GRF 149-321 Operating Expenses	\$	539,319	\$ 539,319	75319
GRF 149-501 Minority Health Grants	\$	670,965	\$ 670,965	75320
GRF 149-502 Lupus Program	\$	136,126	\$ 136,126	75321
TOTAL GRF General Revenue Fund	\$	1,346,410	\$ 1,346,410	75322
Federal Special Revenue Fund Group				75323
3J9 149-602 Federal Grants	\$	150,000	\$ 150,000	75324
TOTAL FED Federal Special Revenue				75325
Fund Group	\$	150,000	\$ 150,000	75326
State Special Revenue Fund Group				75327
4C2 149-601 Minority Health	\$	250,000	\$ 150,000	75328
Conference				
TOTAL SSR State Special Revenue				75329
Fund Group	\$	250,000	\$ 150,000	75330
TOTAL ALL BUDGET FUND GROUPS	\$	1,746,410	\$ 1,646,410	75331
LUPUS PROGRAM				75332
The foregoing appropriation item 149-502, Lupus Program,				75333
shall be used to provide grants for programs in patient, public,				75334
and professional education on the subject of systemic lupus				75335
erythematosus; to encourage and develop local centers on lupus				75336
information gathering and screening; and to provide outreach to				75337
minority women.				75338
Section 209.15. CRB MOTOR VEHICLE COLLISION REPAIR				75339
REGISTRATION BOARD				75340
General Service Fund Group				75341
5H9 865-609 Operating Expenses -	\$	325,047	\$ 0	75342
CRB				
TOTAL GSF General Services				75343

Fund Group	\$	325,047	\$	0	75344
TOTAL ALL BUDGET FUND GROUPS	\$	325,047	\$	0	75345

Section 209.18. DNR DEPARTMENT OF NATURAL RESOURCES					75347
General Revenue Fund					75348
GRF 725-401 Wildlife-GRF Central	\$	250,000	\$	250,000	75349
Support					
GRF 725-404 Fountain Square Rental	\$	1,025,300	\$	1,092,000	75350
Payments - OBA					
GRF 725-407 Conservation Reserve	\$	1,000,000	\$	1,000,000	75351
Enhancement Program					
GRF 725-413 OPFC Lease Rental	\$	18,699,100	\$	20,962,800	75352
Payments					
GRF 725-423 Stream and Ground	\$	311,910	\$	311,910	75353
Water Gauging					
GRF 725-425 Wildlife License	\$	646,319	\$	646,319	75354
Reimbursement					
GRF 725-456 Canal Lands	\$	332,859	\$	332,859	75355
GRF 725-502 Soil and Water	\$	9,836,436	\$	9,836,436	75356
Districts					
GRF 725-903 Natural Resources	\$	25,866,000	\$	24,359,100	75357
General Obligation					
Debt Service					
GRF 727-321 Division of Forestry	\$	8,541,511	\$	8,541,511	75358
GRF 728-321 Division of Geological	\$	1,630,000	\$	1,630,000	75359
Survey					
GRF 729-321 Office of Information	\$	440,895	\$	440,895	75360
Technology					
GRF 730-321 Division of Parks and	\$	37,874,841	\$	39,874,841	75361
Recreation					
GRF 731-321 Office of Coastal	\$	259,707	\$	259,707	75362
Management					
GRF 733-321 Division of Water	\$	3,207,619	\$	3,207,619	75363

GRF 736-321	Division of Engineering	\$	3,118,703	\$	3,118,703	75364
GRF 737-321	Division of Soil and Water	\$	4,074,788	\$	4,074,788	75365
GRF 738-321	Division of Real Estate and Land Management	\$	2,291,874	\$	2,291,874	75366
GRF 741-321	Division of Natural Areas and Preserves	\$	3,009,505	\$	3,009,505	75367
GRF 744-321	Division of Mineral Resources Management	\$	3,068,167	\$	3,068,167	75368
TOTAL GRF	General Revenue Fund	\$	125,485,534	\$	128,309,034	75369
	General Services Fund Group					75370
155 725-601	Departmental Projects	\$	2,135,821	\$	2,011,726	75371
157 725-651	Central Support Indirect	\$	6,528,675	\$	6,528,675	75372
204 725-687	Information Services	\$	4,676,627	\$	4,676,627	75373
206 725-689	REALM Support Services	\$	475,000	\$	475,000	75374
207 725-690	Real Estate Services	\$	64,000	\$	64,000	75375
223 725-665	Law Enforcement Administration	\$	2,096,225	\$	2,096,225	75376
227 725-406	Parks Projects Personnel	\$	175,000	\$	110,000	75377
4D5 725-618	Recycled Materials	\$	50,000	\$	50,000	75378
4S9 725-622	NatureWorks Personnel	\$	472,648	\$	307,648	75379
4X8 725-662	Water Resources Council	\$	125,000	\$	125,000	75380
430 725-671	Canal Lands	\$	797,582	\$	847,582	75381
508 725-684	Natural Resources Publications	\$	157,792	\$	157,792	75382
510 725-631	Maintenance - State-owned Residences	\$	260,849	\$	260,849	75383
516 725-620	Water Management	\$	2,442,956	\$	2,459,120	75384

635	725-664	Fountain Square	\$	3,182,223	\$	3,190,223	75385
		Facilities Management					
697	725-670	Submerged Lands	\$	542,011	\$	542,011	75386
TOTAL GSF General Services							75387
Fund Group			\$	24,182,409	\$	23,902,478	75388
Federal Special Revenue Fund Group							75389
3B3	725-640	Federal Forest	\$	150,000	\$	150,000	75390
		Pass-Thru					
3B4	725-641	Federal Flood	\$	350,000	\$	350,000	75391
		Pass-Thru					
3B5	725-645	Federal Abandoned Mine	\$	14,310,497	\$	14,307,666	75392
		Lands					
3B6	725-653	Federal Land and Water	\$	5,000,000	\$	5,000,000	75393
		Conservation Grants					
3B7	725-654	Reclamation -	\$	2,107,292	\$	2,107,291	75394
		Regulatory					
3P0	725-630	Natural Areas and	\$	315,000	\$	315,000	75395
		Preserves - Federal					
3P1	725-632	Geological Survey -	\$	479,651	\$	479,651	75396
		Federal					
3P2	725-642	Oil and Gas-Federal	\$	362,933	\$	367,912	75397
3P3	725-650	Coastal Management -	\$	1,592,923	\$	1,607,686	75398
		Federal					
3P4	725-660	Water - Federal	\$	419,766	\$	420,525	75399
3R5	725-673	Acid Mine Drainage	\$	2,225,000	\$	2,225,000	75400
		Abatement/Treatment					
3Z5	725-657	REALM-Federal	\$	1,578,871	\$	1,578,871	75401
328	725-603	Forestry Federal	\$	1,813,827	\$	2,228,081	75402
332	725-669	Federal Mine Safety	\$	258,102	\$	258,102	75403
		Grant					
TOTAL FED Federal Special Revenue							75404
Fund Group			\$	30,963,862	\$	31,395,785	75405

	State Special Revenue Fund Group					75406	
4J2	725-628	Injection Well Review	\$	93,957	\$	79,957	75407
4M7	725-631	Wildfire Suppression	\$	100,000	\$	100,000	75408
4U6	725-668	Scenic Rivers	\$	407,100	\$	407,100	75409
		Protection					
5B3	725-674	Mining Regulation	\$	28,850	\$	28,850	75410
5BV	725-683	Soil and Water	\$	1,850,000	\$	1,850,000	75411
		Districts					
5P2	725-634	Wildlife Boater Angler	\$	4,200,000	\$	3,500,000	75412
		Administration					
509	725-602	State Forest	\$	2,291,664	\$	2,591,664	75413
511	725-646	Ohio Geological	\$	549,310	\$	549,310	75414
		Mapping					
512	725-605	State Parks Operations	\$	26,814,288	\$	26,814,288	75415
512	725-680	Parks Facilities	\$	2,576,240	\$	2,576,240	75416
		Maintenance					
514	725-606	Lake Erie Shoreline	\$	612,075	\$	657,113	75417
518	725-643	Oil and Gas Permit	\$	2,574,377	\$	2,574,378	75418
		Fees					
518	725-677	Oil and Gas Well	\$	1,200,000	\$	1,200,000	75419
		Plugging					
521	725-627	Off-Road Vehicle	\$	143,490	\$	143,490	75420
		Trails					
522	725-656	Natural Areas Checkoff	\$	1,550,670	\$	1,550,670	75421
		Funds					
526	725-610	Strip Mining	\$	1,932,492	\$	1,932,492	75422
		Administration Fee					
527	725-637	Surface Mining	\$	2,312,815	\$	2,322,702	75423
		Administration					
529	725-639	Unreclaimed Land Fund	\$	623,356	\$	631,257	75424
531	725-648	Reclamation Forfeiture	\$	2,061,861	\$	2,062,237	75425
532	725-644	Litter Control and	\$	7,100,000	\$	7,100,000	75426
		Recycling					

586	725-633	Scrap Tire Program	\$	1,000,000	\$	1,000,000	75427
615	725-661	Dam Safety	\$	365,223	\$	365,223	75428
TOTAL SSR State Special Revenue							75429
Fund Group			\$	60,387,768	\$	60,036,971	75430
Clean Ohio Fund Group							75431
061	725-405	Clean Ohio Operating	\$	155,000	\$	155,000	75432
TOTAL CLF Clean Ohio Fund Group							75433
Wildlife Fund Group							75434
015	740-401	Division of Wildlife Conservation	\$	49,447,500	\$	50,447,500	75435
815	725-636	Cooperative Management Projects	\$	120,449	\$	120,449	75436
816	725-649	Wetlands Habitat	\$	966,885	\$	966,885	75437
817	725-655	Wildlife Conservation Checkoff Fund	\$	5,000,000	\$	5,000,000	75438
818	725-629	Cooperative Fisheries Research	\$	988,582	\$	988,582	75439
819	725-685	Ohio River Management	\$	128,584	\$	128,584	75440
TOTAL WLF Wildlife Fund Group							75441
Waterways Safety Fund Group							75442
086	725-414	Waterways Improvement	\$	3,792,343	\$	3,792,343	75443
086	725-418	Buoy Placement	\$	52,182	\$	52,182	75444
086	725-501	Waterway Safety Grants	\$	137,867	\$	137,867	75445
086	725-506	Watercraft Marine Patrol	\$	576,153	\$	576,153	75446
086	725-513	Watercraft Educational Grants	\$	366,643	\$	366,643	75447
086	739-401	Division of Watercraft	\$	20,027,909	\$	20,086,681	75448
5AW	725-682	Watercraft Revolving Loans	\$	3,000,000	\$	1,000,000	75449
TOTAL WSF Waterways Safety Fund							75450
Group			\$	27,953,097	\$	26,011,869	75451

Holding Account Redistribution Fund Group				75452
R17 725-659 Performance Cash Bond	\$	374,263	\$ 374,263	75453
Refunds				
R43 725-624 Forestry	\$	2,500,000	\$ 1,500,000	75454
TOTAL 090 Holding Account				75455
Redistribution Fund Group	\$	2,874,263	\$ 1,874,263	75456
Accrued Leave Liability Fund Group				75457
4M8 725-675 FOP Contract	\$	20,844	\$ 20,844	75458
TOTAL ALF Accrued Leave				75459
Liability Fund Group	\$	20,844	\$ 20,844	75460
TOTAL ALL BUDGET FUND GROUPS	\$	328,674,777	\$ 329,358,244	75461

Section 209.18.03. CENTRAL SUPPORT INDIRECT 75463

With the exception of the Division of Wildlife, whose direct 75464
and indirect central support charges shall be paid out of the 75465
General Revenue Fund from the foregoing appropriation item 75466
725-401, Wildlife-GRF Central Support, the Department of Natural 75467
Resources, with approval of the Director of Budget and Management, 75468
shall utilize a methodology for determining each division's 75469
payments into the Central Support Indirect Fund (Fund 157). The 75470
methodology used shall contain the characteristics of 75471
administrative ease and uniform application in compliance with 75472
federal grant requirements. It may include direct cost charges for 75473
specific services provided. Payments to the Central Support 75474
Indirect Fund (Fund 157) shall be made using an intrastate 75475
transfer voucher. 75476

Section 209.18.06. FOUNTAIN SQUARE 75477

The foregoing appropriation item 725-404, Fountain Square 75478
Rental Payments - OBA, shall be used by the Department of Natural 75479
Resources to meet all payments required to be made to the Ohio 75480
Building Authority during the period from July 1, 2005, to June 75481

30, 2007, pursuant to leases and agreements with the Ohio Building Authority under section 152.241 of the Revised Code, but limited to the aggregate amount of \$2,117,300. 75482
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The Director of Natural Resources, using intrastate transfer vouchers, shall make payments to the General Revenue Fund from funds other than the General Revenue Fund to reimburse the General Revenue Fund for the other funds' shares of the lease rental payments to the Ohio Building Authority. The transfers from the non-General Revenue funds shall be made within 10 days of the payment to the Ohio Building Authority for the actual amounts necessary to fulfill the leases and agreements pursuant to section 152.241 of the Revised Code. 75485
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The foregoing appropriation item 725-664, Fountain Square Facilities Management (Fund 635), shall be used for payment of repairs, renovation, utilities, property management, and building maintenance expenses for the Fountain Square Complex. Cash transferred by intrastate transfer vouchers from various department funds and rental income received by the Department of Natural Resources shall be deposited into the Fountain Square Facilities Management Fund (Fund 635). 75494
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LEASE RENTAL PAYMENTS 75502

The foregoing appropriation item 725-413, OPFC Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Department of Natural Resources pursuant to leases and agreements made under section 154.22 of the Revised Code, but limited to the aggregate amount of \$50,375,100. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.22 of the Revised Code. 75503
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NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 75513

The foregoing appropriation item 725-903, Natural Resources 75514
General Obligation Debt Service, shall be used to pay all debt 75515
service and related financing costs at the times they are required 75516
to be made pursuant to sections 151.01 and 151.05 of the Revised 75517
Code during the period from July 1, 2005, to June 30, 2007. The 75518
Office of the Sinking Fund or the Director of Budget and 75519
Management shall effectuate the required payments by an intrastate 75520
transfer voucher. 75521

Section 209.18.09. WILDLIFE LICENSE REIMBURSEMENT 75522

Notwithstanding the limits of the transfer from the General 75523
Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 75524
of the Revised Code, up to the amount available in appropriation 75525
item 725-425, Wildlife License Reimbursement, may be transferred 75526
from the General Revenue Fund to the Wildlife Fund (Fund 015). 75527
Pursuant to the certification of the Director of Budget and 75528
Management of the amount of foregone revenue in accordance with 75529
section 1533.15 of the Revised Code, the foregoing appropriation 75530
item in the General Revenue Fund, appropriation item 725-425, 75531
Wildlife License Reimbursement, shall be used to reimburse the 75532
Wildlife Fund (Fund 015) for the cost of hunting and fishing 75533
licenses and permits issued after June 30, 1990, to individuals 75534
who are exempted under the Revised Code from license, permit, and 75535
stamp fees. 75536

CANAL LANDS 75537

The foregoing appropriation item 725-456, Canal Lands, shall 75538
be used to transfer funds to the Canal Lands Fund (Fund 430) to 75539
provide operating expenses for the State Canal Lands Program. The 75540
transfer shall be made using an intrastate transfer voucher and 75541
shall be subject to the approval of the Director of Budget and 75542

Management.	75543
SOIL AND WATER DISTRICTS	75544
In addition to state payments to soil and water conservation districts authorized by section 1515.10 of the Revised Code, the Department of Natural Resources may pay to any soil and water conservation district, from authority in appropriation item 725-502, Soil and Water Districts, an annual amount not to exceed \$30,000, upon receipt of a request and justification from the district and approval by the Ohio Soil and Water Conservation Commission. The county auditor shall credit the payments to the special fund established under section 1515.10 of the Revised Code for the local soil and water conservation district. Moneys received by each district shall be expended for the purposes of the district. The foregoing appropriation item 725-683, Soil and Water Districts, shall be expended for the purposes described above, except that the funding source for this appropriation shall be a fee applied on the disposal of construction and demolition debris as provided in section 1515.14 of the Revised Code, as amended by this act.	75545 75546 75547 75548 75549 75550 75551 75552 75553 75554 75555 75556 75557 75558 75559 75560 75561
Of the foregoing appropriation item 725-502, Soil and Water Districts, \$25,000 in each fiscal year shall be used for the Conservation Action Project.	75562 75563 75564
Of the foregoing appropriation item, 725-683, Soil and Water Districts, \$200,000 in each fiscal year shall be used to support the Heidelberg College Water Quality Laboratory.	75565 75566 75567
Of the foregoing appropriation item 725-683, Soil and Water Districts, \$100,000 in each fiscal year shall be used to support the Muskingum Watershed Conservancy District.	75568 75569 75570
Of the foregoing appropriation item 725-683, Soil and Water Districts, \$100,000 in each fiscal year shall be used to support the Indian Lake Watershed in Logan County.	75571 75572 75573

FUND CONSOLIDATION 75574

The Director of Budget and Management shall transfer an 75575
amount certified by the Director of Natural Resources from the 75576
Central Support Indirect Fund (Fund 157) to the Law Enforcement 75577
Administration Fund (Fund 223) and the Information Services Fund 75578
(Fund 204) to implement a direct cost recovery plan. 75579

STATE PARK DEPRECIATION RESERVE 75580

The foregoing appropriation item 725-635, Parks Facilities 75581
Maintenance, within the Depreciation Reserve Fund (Fund 161), 75582
shall be used by the Division of Parks and Recreation to maintain 75583
state park revenue producing facilities in the best economic 75584
operating condition and to repair and replace equipment used in 75585
the operation of state park revenue producing facilities. 75586

Prior to July 31, 2005, the Director of Budget and Management 75587
shall transfer the cash balance in the Depreciation Reserve Fund 75588
(Fund 161), which is abolished in section 1541.221 of the Revised 75589
Code, as amended by this act, to the State Park Fund (Fund 512), 75590
which is created in section 1541.22 of the Revised Code. 75591

OIL AND GAS WELL PLUGGING 75592

The foregoing appropriation item 725-677, Oil and Gas Well 75593
Plugging, shall be used exclusively for the purposes of plugging 75594
wells and to properly restore the land surface of idle and orphan 75595
oil and gas wells pursuant to section 1509.071 of the Revised 75596
Code. No funds from the appropriation item shall be used for 75597
salaries, maintenance, equipment, or other administrative 75598
purposes, except for those costs directly attributed to the 75599
plugging of an idle or orphan well. Appropriation authority from 75600
this appropriation item shall not be transferred to any other fund 75601
or line item. 75602

LITTER CONTROL AND RECYCLING 75603

Of the foregoing appropriation item, 725-644, Litter Control 75604
and Recycling, not more than \$1,500,000 may be used in each fiscal 75605
year for the administration of the Recycling and Litter Prevention 75606
program. The remaining \$5,600,000 shall be used to provide grants 75607
to local governments. 75608

CLEAN OHIO OPERATING EXPENSES 75609

The foregoing appropriation item 725-405, Clean Ohio 75610
Operating, shall be used by the Department of Natural Resources in 75611
administering section 1519.05 of the Revised Code. 75612

WATERCRAFT MARINE PATROL 75613

Of the foregoing appropriation item 739-401, Division of 75614
Watercraft, not more than \$200,000 in each fiscal year shall be 75615
expended for the purchase of equipment for marine patrols 75616
qualifying for funding from the Department of Natural Resources 75617
pursuant to section 1547.67 of the Revised Code. Proposals for 75618
equipment shall accompany the submission of documentation for 75619
receipt of a marine patrol subsidy pursuant to section 1547.67 of 75620
the Revised Code and shall be loaned to eligible marine patrols 75621
pursuant to a cooperative agreement between the Department of 75622
Natural Resources and the eligible marine patrol. 75623

WATERCRAFT REVOLVING LOAN PROGRAM 75624

Upon certification by the Director of Natural Resources, the 75625
Director of Budget and Management shall transfer an amount not to 75626
exceed \$3,000,000 in fiscal year 2006 and not to exceed \$1,000,000 75627
in fiscal year 2007 so certified from the Waterways Safety Fund 75628
(Fund 086) to the Watercraft Revolving Loans Fund (Fund 5AW). The 75629
moneys shall be used pursuant to section 1547.721 of the Revised 75630
Code. 75631

PARKS CAPITAL EXPENSES FUND 75632

There is hereby created in the state treasury the Parks 75633

Capital Expenses Fund (Fund 227). The fund shall be used to pay 75634
for design, engineering, and planning costs incurred by the 75635
Department of Natural Resources for capital parks projects. 75636

The Director of Natural Resources shall submit to the 75637
Director of Budget and Management the estimated design, 75638
engineering, and planning costs of capital-related work to be done 75639
by Department of Natural Resources staff for parks projects. If 75640
the Director of Budget and Management approves the estimated 75641
costs, the Director may release appropriations from appropriation 75642
item 725-406, Parks Projects Personnel, for those purposes. Upon 75643
release of the appropriations, the Department of Natural Resources 75644
shall pay for these expenses from the Parks Capital Expenses Fund 75645
(Fund 227). Expenses paid from Fund 227 shall be reimbursed by the 75646
Parks and Recreation Improvement Fund (Fund 035) using an 75647
intrastate transfer voucher. 75648

Section 209.21. NUR STATE BOARD OF NURSING 75649

General Services Fund Group 75650

4K9 884-609 Operating Expenses	\$	5,503,280	\$	5,503,280	75651
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5P8 884-601 Nursing Special Issues	\$	5,000	\$	5,000	75652
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TOTAL GSF General Services 75653

Fund Group	\$	5,508,280	\$	5,508,280	75654
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TOTAL ALL BUDGET FUND GROUPS	\$	5,508,280	\$	5,508,280	75655
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NURSING SPECIAL ISSUES 75656

The foregoing appropriation item 884-601, Nursing Special 75657
Issues (Fund 5P8), shall be used to pay the costs the Board of 75658
Nursing incurs in implementing section 4723.062 of the Revised 75659
Code. 75660

MEDICATION AIDE PILOT PROGRAM 75661

(A) As used in this section: 75662

(1) "Medication" means a drug, as defined in section 4729.01 75663

of the Revised Code. 75664

(2) "Medication error" means a failure to follow the 75665
prescriber's instructions when administering a prescription 75666
medication to a participating resident. 75667

(3) "Nurse" means both of the following: 75668

(a) A registered nurse; 75669

(b) A licensed practical nurse who has completed a course in 75670
medication administration approved by the Board of Nursing. 75671

(4) "Nursing home" and "residential care facility" have the 75672
same meanings as in section 3721.01 of the Revised Code. 75673

(5) "Participating facility" means a nursing home or 75674
residential care facility that has been selected by the Board of 75675
Nursing to participate in the Medication Aide Pilot Program and 75676
has not had its participation in the Program terminated. 75677

(6) "Prescriber" and "prescription" have the same meanings as 75678
in section 4729.01 of the Revised Code. 75679

(7) "Prescription medication" means a drug that may be 75680
dispensed only on a prescription. 75681

(B)(1) In consultation with the Medication Aide Pilot Program 75682
Council, the Board of Nursing shall establish and conduct the 75683
Medication Aide Pilot Program to utilize medication aides to 75684
administer medications, including prescription medications, to 75685
residents of nursing homes and residential care facilities. 75686

(2) The Medication Aide Pilot Program Council is hereby 75687
created. The Council shall consist of the following members: 75688

(a) A registered nurse recommended by the Ohio Nurses 75689
Association who is working in long-term care; 75690

(b) A licensed practical nurse recommended by the Licensed 75691
Practical Nurse Association of Ohio who is working in long-term 75692

care;	75693
(c) A registered nurse recommended by the Ohio Nurses Association who has experience in researching gerontology issues;	75694 75695
(d) An advanced practice nurse recommended by the Ohio Association of Advanced Practice Nurses who has experience in gerontology;	75696 75697 75698
(e) A representative of the Ohio Health Care Association who is appointed by the Association;	75699 75700
(f) A representative of the Association of Ohio Philanthropic Homes, Housing, and Services for the Aging who is appointed by the Association;	75701 75702 75703
(g) A representative of the Ohio Academy of Nursing Homes who is appointed by the Academy;	75704 75705
(h) A representative of the Ohio Assisted Living Association who is appointed by the Association;	75706 75707
(i) A representative of the Ohio Association of Long Term Care Ombudsmen who is appointed by the Association;	75708 75709
(j) A representative of the Office of State Long-term Care Ombudsperson Program;	75710 75711
(k) A representative of the American Association of Retired Persons who is appointed by the Association;	75712 75713
(l) A representative of facility residents and families of facility residents who is appointed by the Board of Nursing;	75714 75715
(m) A representative of the Ohio Pharmacists Association who is appointed by the Association;	75716 75717
(n) A representative of certified nursing assistants who is appointed by the Department of Health;	75718 75719
(o) A representative of the Department of Health with expertise in the Competency Evaluation Program, as defined in	75720 75721

section 3721.21 of the Revised Code, who is appointed by the
Department of Health; 75722
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(p) A representative of the Department of Job and Family
Services who is appointed by the Department of Job and Family
Services. 75724
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A member or representative of the Board of Nursing shall
serve as chairperson of the Council. Members of the Council shall
receive no compensation for their service on the Council. 75727
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(3) The Council shall make recommendations to the Board on
all of the following: 75730
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(a) The design of the program; 75732

(b) The content of the training required for medication
aides; 75733
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(c) Protection of the health and welfare of residents of
facilities participating in the program; 75735
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(d) Whether a medication aide may administer a prescription
medication through a gastrostomy or jejunostomy tube. 75737
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(e) The amount and type of training a medication aide needs
to adequately prepare the medication aide to administer a
prescription medication through a gastrostomy or jejunostomy tube. 75739
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(C)(1) The Board of Nursing shall operate the Medication Aide
Pilot Program in a manner consistent with human protection and
other ethical concerns typically associated with research studies
involving live subjects. 75742
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(2) Within the first six months after the effective date of
this section, the Board, in consultation with the Medication Aide
Pilot Program Council, shall do all of the following: 75746
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(a) Design the Program; 75749

(b) Establish standards to govern medication aides and 75750

facilities participating in the Program, including training 75751
requirements for medication aides and staff of participating 75752
facilities; 75753

(c) Establish standards to protect the health and safety of 75754
participating residents; 75755

(d) Select facilities to participate in the Program; 75756

(e) Select an independent evaluator to assess the Program. 75757

(3) The Board shall commence operation of the Program not 75758
later than six months after the effective date of this section and 75759
operate it for not less than one year. 75760

(D)(1) Notwithstanding divisions (A) and (B) of section 75761
4723.03 of the Revised Code, an individual authorized by the Board 75762
of Nursing to participate in the Program as a medication aide may 75763
administer medications, including prescription medications, to a 75764
participating resident of a nursing home or residential care 75765
facility if a nurse has delegated, in accordance with rules for 75766
delegation adopted under Chapter 4723. of the Revised Code, 75767
responsibility for the administration to the medication aide. A 75768
medication aide may administer only the following types of 75769
medications: 75770

(a) Oral medications; 75771

(b) Topical medications; 75772

(c) Medications administered as drops to the eye, ear, or 75773
nose; 75774

(d) Rectal and vaginal medications. 75775

(2) A medication aide may not do either of the following: 75776

(a) Administer a medication that is a Schedule I or Schedule 75777
II controlled substance as those terms are defined in section 75778
3719.01 of the Revised Code; 75779

- (b) Administer any medication that requires titration. 75780
- (E)(1) An individual seeking to participate in the Program as 75781
a medication aide shall apply to the Board on a form provided by 75782
the Board. The Board shall authorize the individual to participate 75783
in the Program as a medication aide if the individual satisfies 75784
all of the following requirements: 75785
- (a) Is a nurse aide who satisfies the requirements of 75786
division (A)(1), (2), (3), (4), (5), (6), or (8) of section 75787
3721.32 of the Revised Code; 75788
- (b) Satisfactorily completes a medication aide training 75789
course as described in division (E)(2) of this section; 75790
- (c) Pays any fee required by the Board; 75791
- (d) Satisfies any other requirements for a medication aide 75792
required by standards established by the Board under division 75793
(C)(2)(b) of this section. 75794
- (2) The content of a medication aide training course must 75795
meet the standards established by the Board under division 75796
(C)(2)(b) of this section and include all of the following: 75797
- (a) At least sixty clock-hours of instruction; 75798
- (b) Classroom instruction on medication administration; 75799
- (c) Supervised clinical practice in administration of 75800
prescription medications; 75801
- (d) An examination that tests the ability to safely 75802
administer prescription medications. 75803
- (3) An individual's authorization to participate in the 75804
Program as a medication aide is valid until the date the Program 75805
ceases to be operated, unless the Board earlier terminates the 75806
individual's authorization to participate in the Program. 75807
- (4) The Board of Nursing may deny or terminate an 75808

individual's authorization to participate in the Medication Aide
Pilot Program as a medication aide for reasons specified by the
Board.

(F)(1) Notwithstanding division (D) of section 4723.03 of the
Revised Code, a participating facility may, during the period the
Program is operated, utilize one or more medication aides to
administer medications, including prescription medications, to the
facility's participating residents.

(2) The Board of Nursing shall select eighty nursing homes
and forty residential care facilities from the nursing homes and
residential care facilities that volunteer to participate in the
program. A nursing home or residential care facility may apply by
submitting a form provided by the Board. To be eligible to
participate in the Program, a facility must meet all of the
following requirements:

(a) Agree to observe the standards established by the Board
under division (C)(2)(b) of this section;

(b)(i) In the case of a nursing home, have not been found in
the two most recent surveys or inspections of the home to have
provided substandard care to a resident or to have had
deficiencies with regard to the administration of medication.

(ii) In the case of a residential care facility, be free of
deficiencies related to the provision of skilled care or the
administration of medication.

(3) The Board may terminate a participating facility's
participation in the Program on receipt of evidence the Board
finds credible that the facility's continued participation in the
Program poses an imminent danger, risk of serious harm, or
jeopardy to a participating resident.

(G) No person employed by a participating facility who

reports in good faith a medication error at a participating 75839
facility shall be subject to criminal liability or disciplinary 75840
action or be liable in damages to any person or government entity 75841
in a civil action for injury, death, or loss to person or property 75842
resulting from the reporting of the medication error. 75843

(H) The independent evaluator selected by the Board shall do 75844
all of the following: 75845

(1) Assess whether medication aides are able to safely 75846
administer medications, including prescription medications, to 75847
nursing home and residential care facility residents; 75848

(2) Determine the financial implications of nursing homes and 75849
residential care facilities utilizing medication aides; 75850

(3) Prepare and submit a report of its findings to the Board 75851
and the Council. 75852

(I) The Board of Nursing, with the assistance of the 75853
Medication Aide Pilot Program Council, shall prepare, or cause to 75854
be prepared, a final report on the Program that includes an 75855
examination of the Program's safety and financial implications. 75856
The report shall be submitted not later than two years after the 75857
effective date of this section to each of the following: 75858

(1) The Governor; 75859

(2) The President and Minority Leader of the Senate; 75860

(3) The Speaker and Minority Leader of the House of 75861
Representatives; 75862

(4) The Director of Health. 75863

Section 209.24. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, 75864
AND ATHLETIC TRAINERS BOARD 75865

General Services Fund Group 75866

4K9 890-609 Operating Expenses \$ 824,057 \$ 0 75867

TOTAL GSF General Services Fund	\$	824,057	\$	0	75868
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	824,057	\$	0	75869
Section 209.30. ODB OHIO OPTICAL DISPENSERS BOARD					75871
General Services Fund Group					75872
4K9 894-609 Operating Expenses	\$	316,517	\$	0	75873
TOTAL GSF General Services					75874
Fund Group	\$	316,517	\$	0	75875
TOTAL ALL BUDGET FUND GROUPS	\$	316,517	\$	0	75876
Section 209.33. OPT STATE BOARD OF OPTOMETRY					75878
General Services Fund Group					75879
4K9 885-609 Operating Expenses	\$	336,771	\$	0	75880
TOTAL GSF General Services					75881
Fund Group	\$	336,771	\$	0	75882
TOTAL ALL BUDGET FUND GROUPS	\$	336,771	\$	0	75883
Section 209.36. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, AND PEDORTHICS					75885
					75886
General Services Fund Group					75887
4K9 973-609 Operating Expenses	\$	99,571	\$	0	75888
TOTAL GSF General Services					75889
Fund Group	\$	99,571	\$	0	75890
TOTAL ALL BUDGET FUND GROUPS	\$	99,571	\$	0	75891
Section 209.39. PBR STATE PERSONNEL BOARD OF REVIEW					75892
General Revenue Fund					75893
GRF 124-321 Operating	\$	1,116,170	\$	1,148,000	75894
TOTAL GRF General Revenue Fund	\$	1,116,170	\$	1,148,000	75895
General Services Fund Group					75896
636 124-601 Transcript and Other	\$	12,000	\$	15,000	75897

TOTAL GSF General Services				75898
Fund Group	\$	12,000	\$ 15,000	75899
TOTAL ALL BUDGET FUND GROUPS	\$	1,128,170	\$ 1,163,000	75900
TRANSCRIPT AND OTHER				75901
The foregoing appropriation item 124-601, Transcript and				75902
Other, may be used to defray the costs of producing an				75903
administrative record.				75904
Section 209.42. PRX STATE BOARD OF PHARMACY				75905
General Services Fund Group				75906
4A5 887-605 Drug Law Enforcement	\$	75,550	\$ 75,550	75907
4K9 887-609 Operating Expenses	\$	5,650,537	\$ 5,400,537	75908
TOTAL GSF General Services				75909
Fund Group	\$	5,726,087	\$ 5,476,087	75910
TOTAL ALL BUDGET FUND GROUPS	\$	5,726,087	\$ 5,476,087	75911
Section 209.45. PSY STATE BOARD OF PSYCHOLOGY				75913
General Services Fund Group				75914
4K9 882-609 Operating Expenses	\$	566,112	\$ 0	75915
TOTAL GSF General Services				75916
Fund Group	\$	566,112	\$ 0	75917
TOTAL ALL BUDGET FUND GROUPS	\$	566,112	\$ 0	75918
Section 209.48. PUB OHIO PUBLIC DEFENDER COMMISSION				75920
General Revenue Fund				75921
GRF 019-321 Public Defender	\$	1,295,570	\$ 1,262,439	75922
Administration				
GRF 019-401 State Legal Defense	\$	5,744,601	\$ 5,704,117	75923
Services				
GRF 019-403 Multi-County: State	\$	823,620	\$ 823,620	75924
Share				
GRF 019-404 Trumbull County -	\$	256,380	\$ 256,380	75925

State Share				
GRF 019-405	Training Account	\$ 31,324	\$ 31,324	75926
GRF 019-501	County Reimbursement	\$ 30,000,000	\$ 30,000,000	75927
TOTAL GRF	General Revenue Fund	\$ 38,151,495	\$ 38,077,880	75928
General Services Fund Group				75929
101 019-602	Inmate Legal	\$ 53,086	\$ 32,338	75930
Assistance				
406 019-603	Training and	\$ 16,000	\$ 16,000	75931
Publications				
407 019-604	County Representation	\$ 186,146	\$ 188,810	75932
408 019-605	Client Payments	\$ 614,027	\$ 762,106	75933
TOTAL GSF	General Services			75934
Fund Group		\$ 869,259	\$ 999,254	75935
Federal Special Revenue Fund Group				75936
3S8 019-608	Federal Representation	\$ 380,484	\$ 315,287	75937
TOTAL FED	Federal Special Revenue			75938
Fund Group		\$ 380,484	\$ 315,287	75939
State Special Revenue Fund Group				75940
4C7 019-601	Multi-County: County	\$ 2,028,309	\$ 2,104,367	75941
Share				
4X7 019-610	Trumbull County -	\$ 642,106	\$ 665,860	75942
County Share				
574 019-606	Legal Services	\$ 16,575,000	\$ 21,300,000	75943
Corporation				
TOTAL SSR	State Special Revenue			75944
Fund Group		\$ 19,245,415	\$ 24,070,227	75945
TOTAL ALL BUDGET FUND GROUPS		\$ 58,646,653	\$ 63,462,648	75946
INDIGENT DEFENSE OFFICE				75947
The foregoing appropriation items 019-404, Trumbull County -				75948
State Share, and 019-610, Trumbull County - County Share, shall be				75949
used to support an indigent defense office for Trumbull County.				75950

MULTI-COUNTY OFFICE				75951
The foregoing appropriation items 019-403, Multi-County:				75952
State Share, and 019-601, Multi-County: County Share, shall be				75953
used to support the Office of the Ohio Public Defender's				75954
Multi-County Branch Office Program.				75955
TRAINING ACCOUNT				75956
The foregoing appropriation item 019-405, Training Account,				75957
shall be used by the Ohio Public Defender to provide legal				75958
training programs at no cost for private appointed counsel who				75959
represent at least one indigent defendant at no cost and for state				75960
and county public defenders and attorneys who contract with the				75961
Ohio Public Defender to provide indigent defense services.				75962
FEDERAL REPRESENTATION				75963
The foregoing appropriation item 019-608, Federal				75964
Representation, shall be used to receive reimbursements from the				75965
federal courts when the Ohio Public Defender provides				75966
representation in federal court cases and to support				75967
representation in such cases.				75968
Section 209.51. DHS DEPARTMENT OF PUBLIC SAFETY				75969
General Revenue Fund				75970
GRF 763-403 Operating Expenses -	\$	4,164,697	\$ 4,164,697	75971
EMA				
GRF 763-507 Individual and	\$	650,000	\$ 650,000	75972
Households Program -				
State				
GRF 768-424 Operating Expenses -	\$	965,899	\$ 1,276,192	75973
CJS				
GRF 769-321 Food Stamp Trafficking	\$	752,000	\$ 752,000	75974
Enforcement Operations				
TOTAL GRF General Revenue Fund	\$	6,532,596	\$ 6,842,889	75975

General Services Fund Group				75976
4P6 768-601 Justice Program	\$	100,000	\$ 100,000	75977
Services				
TOTAL GSF General Services Fund	\$	100,000	\$ 100,000	75978
Group				
Federal Special Revenue Fund Group				75979
3L5 768-604 Justice Program	\$	31,019,750	\$ 25,214,623	75980
3V8 768-605 Federal Program	\$	50,000	\$ 0	75981
Purposes FFY01				
TOTAL FED Federal Special Revenue	\$	31,069,750	\$ 25,214,623	75982
Fund Group				
State Special Revenue Fund Group				75983
5BK 768-689 Family Violence	\$	500,000	\$ 650,000	75984
Shelter Programs				
5B9 766-632 PI & Security Guard	\$	1,888,716	\$ 1,188,716	75985
Provider				
5CC 768-607 Public Safety Services	\$	100,000	\$ 200,000	75986
TOTAL SSR State Special Revenue	\$	1,788,716	\$ 2,038,716	75987
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	39,491,062	\$ 34,196,228	75988
OHIO TASK FORCE ONE - URBAN SEARCH AND RESCUE UNIT				75989
Of the foregoing appropriation item 763-403, Operating				75990
Expenses - EMA, \$200,000 in each fiscal year shall be used to fund				75991
the Ohio Task Force One - Urban Search and Rescue Unit and other				75992
urban search and rescue programs around the state to create a				75993
stronger search and rescue capability statewide.				75994
INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH				75995
The foregoing appropriation item 763-507, Individual and				75996
Households Program - State, shall be used to fund the state share				75997
of costs to provide grants to individuals and households in cases				75998
of disaster.				75999

TRANSFER OF THE OFFICE OF CRIMINAL JUSTICE SERVICES TO THE 76000
DEPARTMENT OF PUBLIC SAFETY 76001

(A) On July 1, 2005: 76002

(1) The Office of Criminal Justice Services shall cease to 76003
exist. The employees of the Office of Criminal Justice Services 76004
who were employed by that Office on June 30, 2005, are transferred 76005
on that date to the Division of Criminal Justice Services in the 76006
Department of Public Safety. The vehicles and equipment assigned 76007
to those employees are transferred to the Division of Criminal 76008
Justice Services. 76009

(2) The assets, liabilities, other equipment not provided 76010
for, and records, irrespective of form or medium, of the Office of 76011
Criminal Justice Services are transferred to the Division of 76012
Criminal Justice Services. The Division of Criminal Justice 76013
Services is the successor to, assumes the obligations of, and 76014
otherwise constitutes the continuation of the Office of Criminal 76015
Justice Services. 76016

(3) Business commenced but not completed by the Office of 76017
Criminal Justice Services on July 1, 2005, shall be completed by 76018
the Division of Criminal Justice Services, in the same manner, and 76019
with the same effect, as if completed by the Office of Criminal 76020
Justice Services. No validation, cure, right, privilege, remedy, 76021
obligation, or liability is lost or impaired by reason of the 76022
transfer required by this section but shall be administered by the 76023
Division of Criminal Justice Services. 76024

(4) The rules, orders, and determinations pertaining to the 76025
Office of Criminal Justice Services continue in effect as rules, 76026
orders, and determinations of the Division of Criminal Justice 76027
Services until modified or rescinded by that Division. 76028

(5) No judicial or administrative action or proceeding 76029
pending on July 1, 2005, is affected by the transfer of functions 76030

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
Executive Director or Division of Criminal Justice Services shall
be substituted as a party in those actions and proceedings.

(6) When the Director or Office of Criminal Justice Services
is referred to in any statute, rule, contract, grant, or other
document, the reference is hereby deemed to refer to the Executive
Director or Division of Criminal Justice Services.

(B) On and after July 1, 2005, if necessary to ensure the
integrity of the numbering of the Administrative Code, the
Director of the Legislative Service Commission shall renumber the
rules of the Office of Criminal Justice Services to reflect their
transfer to the Division of Criminal Justice Services in the
Department of Public Safety.

(C) On and after July 1, 2005, notwithstanding any provision
of law to the contrary, the Director of Budget and Management is
authorized to take the actions described in this section with
respect to budget changes made necessary by administrative
reorganization, program transfers, the creation of new funds, and
the consolidation of funds as authorized by this act. The Director
may make any transfer of cash balances between funds. At the
request of the Director of Budget and Management, the
administering agency head shall certify to the Director an
estimate of the amount of the cash balance to be transferred to
the receiving fund. The Director may transfer the estimated amount
when needed to make payments. Not more than thirty days after
certifying the estimated amount, the administering agency head
shall certify the final amount to the Director. The Director shall
transfer the difference between any amount previously transferred
and the certified final amount. The Director may cancel

encumbrances and re-establish encumbrances or parts of 76063
encumbrances as needed in fiscal year 2006 in the appropriate fund 76064
and appropriation item for the same purpose and to the same 76065
vendor. As determined by the Director, the appropriation authority 76066
necessary to re-establish those encumbrances in fiscal year 2006 76067
in a different fund or appropriation item within an agency or 76068
between agencies is hereby authorized. The Director shall reduce 76069
each year's appropriation balances by the amount of the 76070
encumbrances canceled in their respective funds and appropriation 76071
items. Any fiscal year 2005 unencumbered or unallocated 76072
appropriation balances may be transferred to the appropriate item 76073
to be used for the same purposes, as determined by the Director. 76074

(D) Any advisory committees appointed by the Governor to 76075
assist the Office of Criminal Justice Services pursuant to section 76076
181.53 and existing on June 30, 2005, shall continue to exist as 76077
advisory committees to the Division of Criminal Justice Services 76078
in the Department of Public Safety beginning on July 1, 2005, 76079
subject to section 121.13 of the Revised Code. 76080

STATE FIRE MARSHAL'S FUND CASH TRANSFERS FOR PUBLIC SAFETY 76081
SERVICES 76082

Notwithstanding section 3737.71 of the Revised Code, in 76083
fiscal year 2006, the Director of Budget and Management shall 76084
transfer \$100,000 in cash from the Department of Commerce's State 76085
Fire Marshal's Fund (Fund 546) to the Department of Public 76086
Safety's Public Safety Services Fund (Fund XXX), which is hereby 76087
created in the state treasury, and in fiscal year 2007, the 76088
Director of Budget and Management shall transfer \$200,000 in cash 76089
from the Department of Commerce's State Fire Marshal's Fund (Fund 76090
546) to the Department of Public Safety's Public Safety Services 76091
Fund (Fund XXX). 76092

The foregoing appropriation item 768-XXX, Public Safety 76093

Services, shall be used by the Department of Public Safety's 76094
 Division of Criminal Justice Services to provide a grant of 76095
 \$100,000 in fiscal year 2006 and a grant of \$200,000 in fiscal 76096
 year 2007 to the City of Warren to assist in providing essential 76097
 public safety services to its citizens. 76098

Section 209.54. PUC PUBLIC UTILITIES COMMISSION OF OHIO 76099

General Services Fund Group 76100

5F6 870-622 Utility and Railroad \$ 31,272,222 \$ 31,272,223 76101

Regulation

5F6 870-624 NARUC/NRRI Subsidy \$ 167,233 \$ 167,233 76102

5F6 870-625 Motor Transportation \$ 5,361,239 \$ 5,361,238 76103

Regulation

TOTAL GSF General Services 76104

Fund Group \$ 36,800,694 \$ 36,800,694 76105

Federal Special Revenue Fund Group 76106

3V3 870-604 Commercial Vehicle \$ 300,000 \$ 300,000 76107

Information

Systems/Networks

333 870-601 Gas Pipeline Safety \$ 597,957 \$ 597,957 76108

350 870-608 Motor Carrier Safety \$ 7,027,712 \$ 7,027,712 76109

TOTAL FED Federal Special Revenue 76110

Fund Group \$ 7,925,669 \$ 7,925,669 76111

State Special Revenue Fund Group 76112

4A3 870-614 Grade Crossing \$ 1,349,757 \$ 1,349,757 76113

Protection

Devices-State

4L8 870-617 Pipeline Safety-State \$ 187,621 \$ 187,621 76114

4S6 870-618 Hazardous Material \$ 464,325 \$ 464,325 76115

Registration

4S6 870-621 Hazardous Materials \$ 373,346 \$ 373,346 76116

Base State

		Registration				
4U8	870-620	Civil Forfeitures	\$	284,986	\$	284,986 76117
559	870-605	Public Utilities	\$	4,000	\$	4,000 76118
		Territorial				
		Administration				
560	870-607	Special Assessment	\$	100,000	\$	100,000 76119
561	870-606	Power Siting Board	\$	337,210	\$	337,210 76120
638	870-611	Biomass Energy Program	\$	40,000	\$	40,000 76121
661	870-612	Hazardous Materials	\$	900,000	\$	900,000 76122
		Transportation				
		TOTAL SSR State Special Revenue				76123
		Fund Group	\$	4,041,245	\$	4,041,245 76124
		Agency Fund Group				76125
4G4	870-616	Base State	\$	5,600,000	\$	5,600,000 76126
		Registration Program				
		TOTAL AGY Agency Fund Group	\$	5,600,000	\$	5,600,000 76127
		TOTAL ALL BUDGET FUND GROUPS	\$	54,367,608	\$	54,367,608 76128
		COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT				76129
		The Commercial Vehicle Information Systems and Networks Fund				76130
		is hereby created in the state treasury. The fund shall receive				76131
		funding from the United States Department of Transportation's				76132
		Commercial Vehicle Intelligent Transportation System				76133
		Infrastructure Deployment Program and shall be used to deploy the				76134
		Ohio Commercial Vehicle Information Systems and Networks Project				76135
		and to expedite and improve the safety of motor carrier operations				76136
		through electronic exchange of data by means of on-highway				76137
		electronic systems.				76138
		Section 209.57. PWC PUBLIC WORKS COMMISSION				76139
		General Revenue Fund				76140
GRF	150-904	Conservation General	\$	13,687,300	\$	17,168,800 76141
		Obligation Debt				

	Service				
GRF 150-907	State Capital	\$ 160,731,400	\$ 172,145,100		76142
	Improvements				
	General Obligation				76143
	Debt Service				
TOTAL GRF	General Revenue Fund	\$ 174,418,700	\$ 189,313,900		76144
	Clean Ohio Fund Group				76145
056 150-403	Clean Ohio Operating	\$ 298,245	\$ 311,509		76146
	Expenses				
TOTAL 056	Clean Ohio Fund Group	\$ 298,245	\$ 311,509		76147
TOTAL ALL BUDGET FUND GROUPS		\$ 174,716,945	\$ 189,625,409		76148
	CONSERVATION GENERAL OBLIGATION DEBT SERVICE				76149
	The foregoing appropriation item 150-904, Conservation				76150
	General Obligation Debt Service, shall be used to pay all debt				76151
	service and related financing costs at the times they are required				76152
	to be made under sections 151.01 and 151.09 of the Revised Code				76153
	during the period from July 1, 2005, to June 30, 2007. The Office				76154
	of the Sinking Fund or the Director of Budget and Management shall				76155
	effectuate the required payments by intrastate transfer voucher.				76156
	STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE				76157
	The foregoing appropriation item 150-907, State Capital				76158
	Improvements General Obligation Debt Service, shall be used to pay				76159
	all debt service and related financing costs at the times they are				76160
	required to be made under sections 151.01 and 151.08 of the				76161
	Revised Code during the period from July 1, 2005, to June 30,				76162
	2007. The Office of the Sinking Fund or the Director of Budget and				76163
	Management shall effectuate the required payments by intrastate				76164
	transfer voucher.				76165
	REIMBURSEMENT TO THE GENERAL REVENUE FUND				76166
	(A) On or before June 1, 2007, the Director of the Public				76167
	Works Commission shall certify to the Director of Budget and				76168

Management the following:				76169	
(1) The total amount disbursed from appropriation item				76170	
700-409, Farmland Preservation, during the 2005-2007 biennium; and				76171	
(2) The amount of interest earnings that have been credited				76172	
to the Clean Ohio Conservation Fund (Fund 056) that are in excess				76173	
of the amount needed for other purposes as calculated by the				76174	
Director of the Public Works Commission.				76175	
(B) If the Director of Budget and Management determines under				76176	
division (A)(2) of this section that there are excess interest				76177	
earnings, the Director of Budget and Management shall, on or				76178	
before June 1, 2007, transfer the excess interest earnings to the				76179	
General Revenue Fund in an amount equal to the total amount				76180	
disbursed under division (A)(1) of this section from the Clean				76181	
Ohio Conservation Fund.				76182	
CLEAN OHIO OPERATING EXPENSES				76183	
The foregoing appropriation item 150-403, Clean Ohio				76184	
Operating Expenses, shall be used by the Ohio Public Works				76185	
Commission in administering sections 164.20 to 164.27 of the				76186	
Revised Code.				76187	
Section 209.60. RAC STATE RACING COMMISSION				76188	
State Special Revenue Fund Group				76189	
5C4 875-607 Simulcast Horse Racing	\$	17,061,489	\$	17,063,948	76190
Purse					
562 875-601 Thoroughbred Race Fund	\$	4,642,378	\$	4,642,378	76191
563 875-602 Standardbred	\$	3,161,675	\$	3,161,675	76192
Development Fund					
564 875-603 Quarterhorse	\$	2,000	\$	2,000	76193
Development Fund					
565 875-604 Racing Commission	\$	4,000,000	\$	4,000,000	76194
Operating					

TOTAL SSR State Special Revenue				76195
Fund Group	\$	28,867,542	\$ 28,870,001	76196
Holding Account Redistribution Fund Group				76197
R21 875-605 Bond Reimbursements	\$	212,900	\$ 212,900	76198
TOTAL 090 Holding Account				76199
Redistribution				
Fund Group	\$	212,900	\$ 212,900	76200
TOTAL ALL BUDGET FUND GROUPS	\$	29,080,442	\$ 29,082,901	76201

Section 209.63. BOR BOARD OF REGENTS 76203

General Revenue Fund				76204
GRF 235-321 Operating Expenses	\$	3,147,659	\$ 2,966,351	76205
GRF 235-401 Lease Rental Payments	\$	200,619,200	\$ 200,795,300	76206
GRF 235-402 Sea Grants	\$	231,925	\$ 231,925	76207
GRF 235-406 Articulation and Transfer	\$	2,900,000	\$ 2,900,000	76208
GRF 235-408 Midwest Higher Education Compact	\$	90,000	\$ 90,000	76209
GRF 235-409 Information System	\$	1,146,510	\$ 1,175,172	76210
GRF 235-414 State Grants and Scholarship Administration	\$	1,352,811	\$ 1,382,881	76211
GRF 235-415 Jobs Challenge	\$	9,348,300	\$ 0	76212
GRF 235-417 Ohio Learning Network	\$	3,119,496	\$ 3,119,496	76213
GRF 235-418 Access Challenge	\$	63,340,676	\$ 0	76214
GRF 235-420 Success Challenge	\$	52,601,934	\$ 0	76215
GRF 235-428 Appalachian New Economy Partnership	\$	1,076,068	\$ 1,076,068	76216
GRF 235-433 Economic Growth Challenge	\$	20,343,097	\$ 0	76217
GRF 235-434 College Readiness and Access	\$	6,375,975	\$ 7,655,425	76218

GRF 235-435	Teacher Improvement Initiatives	\$ 2,597,506	\$ 2,597,506	76219
GRF 235-451	Eminent Scholars	\$ 0	\$ 1,370,988	76220
GRF 235-455	EnterpriseOhio Network	\$ 1,373,941	\$ 1,373,941	76221
GRF 235-474	Area Health Education Centers Program Support	\$ 1,571,756	\$ 1,571,756	76222
GRF 235-501	State Share of Instruction	\$ 1,559,096,031	\$ 1,718,873,185	76223
GRF 235-502	Student Support Services	\$ 795,790	\$ 795,790	76224
GRF 235-503	Ohio Instructional Grants	\$ 121,151,870	\$ 92,496,969	76225
GRF 235-504	War Orphans Scholarships	\$ 4,672,321	\$ 4,672,321	76226
GRF 235-507	OhioLINK	\$ 6,887,824	\$ 6,887,824	76227
GRF 235-508	Air Force Institute of Technology	\$ 1,925,345	\$ 1,925,345	76228
GRF 235-510	Ohio Supercomputer Center	\$ 4,021,195	\$ 4,021,195	76229
GRF 235-511	Cooperative Extension Service	\$ 25,644,863	\$ 25,644,863	76230
GRF 235-513	Ohio University Voinovich Center	\$ 286,082	\$ 286,082	76231
GRF 235-514	Central State Supplement	\$ 10,172,626	\$ 0	76232
GRF 235-515	Case Western Reserve University School of Medicine	\$ 3,011,271	\$ 3,011,271	76233
GRF 235-520	Shawnee State Supplement	\$ 1,817,839	\$ 0	76234
GRF 235-521	The Ohio State University Glenn	\$ 286,082	\$ 286,082	76235

	Institute				
GRF 235-524	Police and Fire	\$	171,959	\$	171,959
	Protection				76236
GRF 235-525	Geriatric Medicine	\$	750,110	\$	0
GRF 235-527	Ohio Aerospace	\$	1,764,957	\$	1,764,957
	Institute				76238
GRF 235-530	Academic Scholarships	\$	7,800,000	\$	7,800,000
GRF 235-531	Student Choice Grants	\$	50,853,276	\$	52,985,376
GRF 235-534	Student Workforce	\$	2,137,500	\$	2,137,500
	Development Grants				76239
GRF 235-535	Ohio Agricultural	\$	35,830,188	\$	35,830,188
	Research and				76240
	Development Center				76241
GRF 235-543	Ohio College of	\$	250,000	\$	250,000
	Podiatric Medicine				76242
	Clinic Subsidy				76243
GRF 235-549	Part-time Student	\$	14,457,721	\$	10,534,617
	Instructional Grants				76244
GRF 235-552	Capital Component	\$	19,058,863	\$	19,058,863
GRF 235-553	Dayton Area Graduate	\$	2,806,599	\$	2,806,599
	Studies Institute				76245
GRF 235-554	Priorities in	\$	2,355,548	\$	2,355,548
	Collaborative Graduate				76246
	Education				76247
GRF 235-555	Library Depositories	\$	1,696,458	\$	1,696,458
GRF 235-556	Ohio Academic	\$	3,727,223	\$	3,727,223
	Resources Network				76248
GRF 235-558	Long-term Care	\$	211,047	\$	0
	Research				76249
GRF 235-560	Medical Support	\$	45,931,099	\$	53,686,414
GRF 235-561	Bowling Green State	\$	100,015	\$	100,015
	University Canadian				76250
	Studies Center				76251
					76252

GRF 235-562	Family Practice and Primary Care Residencies	\$	6,794,158	\$	0	76253
GRF 235-563	Ohio College Opportunity Grant	\$	0	\$	58,144,139	76254
GRF 235-572	The Ohio State University Clinic Support	\$	1,277,019	\$	1,277,019	76255
GRF 235-583	Urban University Programs	\$	4,901,408	\$	4,901,408	76256
GRF 235-587	Rural University Projects	\$	1,033,100	\$	1,033,100	76257
GRF 235-596	Hazardous Materials Program	\$	310,435	\$	310,435	76258
GRF 235-599	National Guard Scholarship Program	\$	15,128,472	\$	16,611,063	76259
GRF 235-909	Higher Education General Obligation Debt Service	\$	137,600,300	\$	152,114,100	76260
TOTAL GRF	General Revenue Fund	\$	2,467,953,448	\$	2,516,504,717	76261
	General Services Fund Group					76262
220 235-614	Program Approval and Reauthorization	\$	400,000	\$	400,000	76263
456 235-603	Sales and Services	\$	700,000	\$	900,000	76264
TOTAL GSF	General Services Fund Group	\$	1,100,000	\$	1,300,000	76265 76266
	Federal Special Revenue Fund Group					76267
3H2 235-608	Human Services Project	\$	1,500,000	\$	1,500,000	76268
3H2 235-622	Medical Collaboration Network	\$	3,346,143	\$	3,346,143	76269
3N6 235-605	State Student Incentive Grants	\$	2,196,680	\$	2,196,680	76270

3T0	235-610	National Health Service Corps - Ohio Loan Repayment	\$	150,001	\$	150,001	76271
312	235-609	Tech Prep	\$	183,850	\$	183,850	76272
312	235-611	Gear-up Grant	\$	1,370,691	\$	1,370,691	76273
312	235-612	Carl D. Perkins Grant/Plan Administration	\$	112,960	\$	112,960	76274
312	235-615	Professional Development	\$	523,129	\$	523,129	76275
312	235-617	Improving Teacher Quality Grant	\$	2,900,000	\$	2,900,000	76276
312	235-619	Ohio Supercomputer Center	\$	6,000,000	\$	6,000,000	76277
312	235-621	Science Education Network	\$	1,686,970	\$	1,686,970	76278
312	235-631	Federal Grants	\$	250,590	\$	250,590	76279
TOTAL FED Federal Special Revenue							76280
Fund Group			\$	20,221,014	\$	20,221,014	76281
State Special Revenue Fund Group							76282
4E8	235-602	Higher Educational Facility Commission Administration	\$	55,000	\$	55,000	76283
4P4	235-604	Physician Loan Repayment	\$	476,870	\$	476,870	76284
649	235-607	The Ohio State University Highway/Transportation Research	\$	760,000	\$	760,000	76285
682	235-606	Nursing Loan Program	\$	893,000	\$	893,000	76286
TOTAL SSR State Special Revenue							76287
Fund Group			\$	2,184,870	\$	2,184,870	76288
TOTAL ALL BUDGET FUND GROUPS			\$	2,491,459,332	\$	2,540,210,601	76289

Section 209.63.03. OPERATING EXPENSES 76291

Of the foregoing appropriation item 235-321, Operating 76292
Expenses, up to \$150,000 in each fiscal year shall be used in 76293
conjunction with funding provided in the Department of Education 76294
budget under appropriation item 200-427, Academic Standards, to 76295
create Ohio's Partnership for Continued Learning, in consultation 76296
with the Governor's Office. The Partnership, which replaces and 76297
broadens the former Joint Council of the Department of Education 76298
and the Board of Regents, shall advise and make recommendations to 76299
promote collaboration among relevant state entities in an effort 76300
to help local communities develop coherent and successful "P-16" 76301
learning systems. The Director of Budget and Management may 76302
transfer any unencumbered fiscal year 2006 balance to fiscal year 76303
2007 to support the activities of the Partnership. 76304

Of the foregoing appropriation item 235-321, Operating 76305
Expenses, \$250,000 in fiscal year 2006 shall be used by the Board 76306
of Regents to contract with an independent party to study each 76307
state supported university. The study shall include an examination 76308
of the areas of study at each state university and determine which 76309
areas of study each university excels in providing, and which 76310
areas of study each university is mediocre in providing. The study 76311
shall point to duplication of coursework, inefficiencies, and 76312
provide recommendations for potential centralization. The Board of 76313
Regents shall report the findings of the study to the General 76314
Assembly and the Governor not later than March 31, 2006. 76315

Section 209.63.06. LEASE RENTAL PAYMENTS 76316

The foregoing appropriation item 235-401, Lease Rental 76317
Payments, shall be used to meet all payments at the times they are 76318
required to be made during the period from July 1, 2005, to June 76319
30, 2007, by the Board of Regents under leases and agreements made 76320

under section 154.21 of the Revised Code, but limited to the 76321
aggregate amount of \$401,414,500. Nothing in this act shall be 76322
deemed to contravene the obligation of the state to pay, without 76323
necessity for further appropriation, from the sources pledged 76324
thereto, the bond service charges on obligations issued pursuant 76325
to section 154.21 of the Revised Code. 76326

Section 209.63.09. SEA GRANTS 76327

The foregoing appropriation item 235-402, Sea Grants, shall 76328
be disbursed to the Ohio State University and shall be used to 76329
conduct research on fish in Lake Erie. 76330

Section 209.63.12. ARTICULATION AND TRANSFER 76331

The foregoing appropriation item 235-406, Articulation and 76332
Transfer, shall be used by the Board of Regents to maintain and 76333
expand the work of the Articulation and Transfer Council to 76334
develop a system of transfer policies to ensure that students at 76335
state institutions of higher education can transfer and have 76336
coursework apply to their majors and degrees at any other state 76337
institution of higher education without unnecessary duplication or 76338
institutional barriers under section 3333.16 of the Revised Code. 76339

Of the foregoing appropriation item 235-406, Articulation and 76340
Transfer, \$200,000 in each fiscal year shall be used to support 76341
the work of the Articulation and Transfer Council under division 76342
(B) of section 3333.16 of the Revised Code. 76343

Section 209.63.15. MIDWEST HIGHER EDUCATION COMPACT 76344

The foregoing appropriation item 235-408, Midwest Higher 76345
Education Compact, shall be distributed by the Board of Regents 76346
under section 3333.40 of the Revised Code. 76347

Section 209.63.18. INFORMATION SYSTEM 76348

The foregoing appropriation item 235-409, Information System, 76349
shall be used by the Board of Regents to operate the higher 76350
education information data system known as the Higher Education 76351
Information System. 76352

Section 209.63.21. STATE GRANTS AND SCHOLARSHIP 76353
ADMINISTRATION 76354

The foregoing appropriation item 235-414, State Grants and 76355
Scholarship Administration, shall be used by the Board of Regents 76356
to administer the following student financial aid programs: Ohio 76357
Instructional Grant, Part-time Student Instructional Grant, Ohio 76358
College Opportunity Grant, Ohio Student Choice Grant, Ohio 76359
Academic Scholarship, Ohio War Orphans' Scholarship, Nurse 76360
Education Assistance Loan Program, Student Workforce Development 76361
Grant, Regents Graduate/Professional Fellowship, Ohio Safety 76362
Officers College Memorial Fund, Capitol Scholarship Program, and 76363
any other student financial aid programs created by the General 76364
Assembly. The appropriation item also shall be used to administer 76365
the federal Leveraging Educational Assistance Partnership (LEAP) 76366
and Special Leveraging Educational Assistance Partnership (SLEAP) 76367
programs and other student financial aid programs created by 76368
Congress and to provide fiscal services for the Ohio National 76369
Guard Scholarship Program and the Physician Loan Repayment 76370
Program. 76371

Section 209.63.24. JOBS CHALLENGE 76372

Funds appropriated to the foregoing appropriation item 76373
235-415, Jobs Challenge, shall be distributed to state-assisted 76374
community and technical colleges, regional campuses of 76375
state-assisted universities, and other organizationally distinct 76376
and identifiable member campuses of the EnterpriseOhio Network in 76377
support of noncredit job-related training. In fiscal year 2006, 76378

\$2,770,773 shall be distributed as performance grants to
EnterpriseOhio Network campuses based upon each campus's
documented performance according to criteria established by the
Board of Regents for increasing training and related services to
businesses, industries, and public sector organizations.

Of the foregoing appropriation item 235-415, Jobs Challenge,
\$2,819,345 in fiscal year 2006 shall be allocated to the Targeted
Industries Training Grant Program to attract, develop, and retain
business and industry strategically important to the state's
economy.

Also, in fiscal year 2006, \$3,758,182 shall be allocated to
the Higher Skills Incentives Program to promote and deliver
coordinated, comprehensive training to local employers and to
reward EnterpriseOhio Network campuses for increasing the amount
of non-credit skill upgrading services provided to Ohio employers
and employees. The funds shall be distributed to campuses in
proportion to each campus's share of noncredit job-related
training revenues received by all campuses for the previous fiscal
year. It is the intent of the General Assembly that this Higher
Skills Incentives component of the Jobs Challenge Program reward
campus noncredit job-related training efforts in the same manner
that the Research Challenge Program rewards campuses for their
ability to obtain sponsored research revenues.

Section 209.63.27. OHIO LEARNING NETWORK

The foregoing appropriation item 235-417, Ohio Learning
Network, shall be used by the Board of Regents to support the
continued implementation of the Ohio Learning Network, a statewide
electronic collaborative effort designed to promote degree
completion of students, workforce training of employees, and
professional development through the use of advanced
telecommunications and distance education initiatives.

Section 209.63.30. ACCESS CHALLENGE 76410

In fiscal year 2006, the foregoing appropriation item 76411
235-418, Access Challenge, shall be distributed to Ohio's 76412
state-assisted access colleges and universities. For the purposes 76413
of this allocation, "access campuses" includes state-assisted 76414
community colleges, state community colleges, technical colleges, 76415
Shawnee State University, Central State University, Cleveland 76416
State University, the regional campuses of state-assisted 76417
universities, and, where they are organizationally distinct and 76418
identifiable, the community-technical colleges located at the 76419
University of Cincinnati, Youngstown State University, and the 76420
University of Akron. 76421

The purpose of Access Challenge is to reduce the student 76422
share of costs for resident undergraduates enrolled in lower 76423
division undergraduate courses at Ohio's access campuses. The 76424
long-term goal is to make the student share of costs for these 76425
students equivalent to the student share of costs for resident 76426
undergraduate students enrolled throughout Ohio's public colleges 76427
and universities. Access Challenge appropriations shall be used in 76428
fiscal year 2006 to sustain, as much as possible, the tuition 76429
restraint or tuition reduction that was achieved with Access 76430
Challenge allocations in prior years. 76431

In fiscal year 2006, Access Challenge subsidies shall be 76432
distributed by the Board of Regents to eligible access campuses on 76433
the basis of the average of each campus's share of fiscal year 76434
2003 and 2004 all-terms subsidy-eligible General Studies FTEs. 76435

For purposes of this calculation, Cleveland State 76436
University's enrollments shall be adjusted by the ratio of the sum 76437
of subsidy-eligible lower-division FTE student enrollments 76438
eligible for access funding to the sum of subsidy-eligible General 76439
Studies FTE student enrollments at Central State University and 76440

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

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

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 76502
order to strengthen academic research for pursuing Ohio's economic 76503
development goals. The Board of Regents, in consultation with the 76504
colleges and universities, shall administer the Research Incentive 76505
Program and utilize a means of matching, on a fractional basis, 76506
external funds attracted in the previous year by institutions for 76507
basic research. The program may include incentives for increasing 76508
the amount of external research funds coming to eligible 76509
institutions and for focusing research efforts upon critical state 76510
needs. Colleges and universities shall submit for review and 76511
approval to the Board of Regents plans for the institutional 76512
allocation of state dollars received through the program. The 76513
institutional plans shall provide the rationale for the allocation 76514
in terms of the strategic targeting of funds for academic and 76515
state purposes, for strengthening research programs, for 76516
increasing the amount of external research funds, and shall 76517
include an evaluation process to provide results of the increased 76518
support. Institutional plans for the use of Research Incentive 76519
funding must demonstrate a significant investment in Third 76520
Frontier activities funded at the institution. For a college or 76521
university with multiple Third Frontier grants, as much as 10% of 76522
that institution's Research Incentive funding may be invested in 76523
Third Frontier Project-related activities. Each institutional plan 76524
for the investment of Research Incentive moneys shall report on 76525
existing, planned, or possible relationships with other state 76526
science and technology programs and funding recipients in order to 76527
further ongoing statewide science and technology collaboration 76528
objectives. The Board of Regents shall submit a biennial report of 76529
progress to the General Assembly. 76530

In fiscal year 2006, each state-assisted doctoral 76531
degree-granting university shall initiate a comprehensive 76532
Innovation Incentive Plan designed to enhance doctoral programs 76533

and areas of research that have the greatest potential to attract 76534
preeminent researchers and build research capacity; enhance 76535
regional or state economic growth by creating new products and 76536
services to be commercialized; and complement Ohio's Third 76537
Frontier Project. 76538

Funding for the Innovation Incentive Program shall be 76539
generated from those universities electing to set aside a portion 76540
of their allocation of the current doctoral reserve as provided in 76541
appropriation item 235-501, State Share of Instruction, and state 76542
matching funds provided in appropriation item 235-433, Economic 76543
Growth Challenge. 76544

Of the foregoing appropriation item 235-433, Economic Growth 76545
Challenge, \$2,343,097 in fiscal year 2006 shall match funds set 76546
aside by the universities for the Innovation Incentive Program. 76547
The set aside begins in fiscal year 2006 and is intended to 76548
increase incrementally over a period of ten years with the goal of 76549
setting aside a total of fifteen per cent of the doctoral reserve 76550
from appropriation item 235-501, State Share of Instruction, by 76551
2016. 76552

The Board of Regents shall use the combined amount of each 76553
participating university's set aside of the doctoral reserve that 76554
has been withheld and the state matching funds earmarked under 76555
appropriation item 235-433, Economic Growth Challenge, to make 76556
awards through a competitive process under the Innovation 76557
Incentive Program. Only universities electing to set aside the 76558
prescribed amount of their allocation of the doctoral reserve are 76559
eligible to compete for and receive Innovation Incentive awards. 76560
The participating universities shall use these awards to 76561
restructure their array of doctoral programs. 76562

Section 209.63.42. COLLEGE READINESS AND ACCESS 76563

Appropriation item 235-434, College Readiness and Access, 76564
shall be used by the Board of Regents to support programs designed 76565
to improve the academic preparation and increase the number of 76566
students that enroll and succeed in higher education such as the 76567
Ohio College Access Network, the state match for the federal 76568
Gaining Early Awareness and Readiness for Undergraduate Program, 76569
and early awareness initiatives. The appropriation item shall also 76570
be used to support innovative statewide strategies to increase 76571
student access and retention for specialized populations, and to 76572
provide for pilot projects that will contribute to improving 76573
access to higher education by specialized populations. The funds 76574
may be used for projects that improve access for nonpublic 76575
secondary students. 76576

Of the foregoing appropriation item 235-434, College 76577
Readiness and Access, \$798,684 in fiscal year 2006 and \$822,645 in 76578
fiscal year 2007 shall be distributed to the Ohio Appalachian 76579
Center for Higher Education at Shawnee State University. The board 76580
of directors of the Center shall consist of the presidents of 76581
Shawnee State University, Ohio University, Belmont Technical 76582
College, Hocking College, Jefferson Community College, Zane State 76583
College, Rio Grande Community College, Southern State Community 76584
College, and Washington State Community College; the dean of one 76585
of the Salem, Tuscarawas, and East Liverpool regional campuses of 76586
Kent State University, as designated by the president of Kent 76587
State University; and a representative of the Board of Regents 76588
designated by the Chancellor. 76589

Of the foregoing appropriation item 235-434, College 76590
Readiness and Access, \$169,553 in fiscal year 2006 and \$174,640 in 76591
fiscal year 2007 shall be distributed to Miami University for the 76592
Student Achievement in Research and Scholarship (STARS) Program. 76593

Of the foregoing appropriation item 235-434, College 76594
Readiness and Access, \$1,574,535 in fiscal year 2006 and 76595

\$2,753,985 in fiscal year 2007 shall be used in conjunction with
funding provided in the Ohio Department of Education budget under
appropriation item 200-431, School Improvement Initiatives, to
support the Early College High School Pilot Program.

Section 209.63.45. TEACHER IMPROVEMENT INITIATIVES 76600

Appropriation item 235-435, Teacher Improvement Initiatives,
shall be used by the Board of Regents to support programs such as
OSI - Discovery and the Centers of Excellence in Mathematics and
Science designed to raise the quality of mathematics and science
teaching in primary and secondary education.

Of the foregoing appropriation item 235-435, Teacher
Improvement Initiatives, \$204,049 in each fiscal year shall be
distributed to the Mathematics and Science Center in Lake County.

Of the foregoing appropriation item 235-435, Teacher
Improvement Initiatives, \$81,619 in each fiscal year shall be
distributed to the Ohio Mathematics and Science Coalition.

Of the foregoing appropriation item 234-435, Teacher
Improvement Initiatives, \$100,000 in each fiscal year shall be
distributed to the Teacher Quality Partnerships study.

Of the foregoing appropriation item 235-435, Teacher
Improvement Initiatives, \$799,871 in each fiscal year shall be
distributed to the Ohio Resource Center for Mathematics, Science,
and Reading. The funds shall be used to support a resource center
for mathematics, science, and reading to be located at a
state-assisted university for the purpose of identifying best
educational practices in primary and secondary schools and
establishing methods for communicating them to colleges of
education and school districts. The Ohio Resource Center for
Mathematics, Science, and Reading shall not make available
resources that are inconsistent with the K-12 science standards

and policies as adopted by the State Board of Education.

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Section 209.63.48. EMINENT SCHOLARS

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The foregoing appropriation item 235-451, Eminent Scholars, shall be used by the Ohio Board of Regents to continue the Ohio Eminent Scholars Program, the purpose of which is to invest educational resources to address problems that are of vital statewide significance while fostering the growth in eminence of Ohio's academic programs. Ohio Eminent Scholars endowed chairs shall allow Ohio universities to recruit senior faculty members from outside Ohio who are nationally and internationally recognized scholars in areas of science and technology that provide the basic research platforms on which the state's technology and commercialization efforts are built. Endowment grants of approximately \$685,494 to state colleges and universities and nonprofit Ohio institutions of higher education holding certificates of authorization issued under section 1713.02 of the Revised Code to match endowment gifts from nonstate sources may be made in accordance with a plan established by the Ohio Board of Regents. Matching nonstate endowment gifts shall be equal to the state's endowment grant of approximately \$685,494. The grants shall have as their purpose attracting and sustaining in Ohio scholar-leaders of national or international prominence; each grant shall assist in accelerating state economic growth through research that provides an essential basic science platform for commercialization efforts. Such scholar-leaders shall, among their duties, share broadly the benefits and knowledge unique to their fields of scholarship to the betterment of Ohio and its people and collaborate with other state technology programs and program recipients.

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All new Eminent Scholar awards made by the Board of Regents shall be associated with a Wright Center of Innovation, a

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Partnership Award from the Biomedical Research and Technology 76657
Transfer Trust Fund, or a Wright Capital Project. 76658

Section 209.63.51. ENTERPRISEOHIO NETWORK 76659

The foregoing appropriation item 235-455, EnterpriseOhio 76660
Network, shall be allocated by the Board of Regents to continue 76661
increasing the capabilities of the EnterpriseOhio Network to meet 76662
the ongoing training needs of Ohio employers. Funds shall support 76663
multicampus collaboration, best practice dissemination, and 76664
capacity building projects. The Regents Advisory Committee for 76665
Workforce Development, in its advisory role, shall advise in the 76666
development of plans and activities. 76667

Of the foregoing appropriation item 235-455, EnterpriseOhio 76668
Network, \$165,300 in each fiscal year shall be used by the Dayton 76669
Business/Sinclair College Jobs Profiling Program. 76670

Section 209.63.54. AREA HEALTH EDUCATION CENTERS 76671

The foregoing appropriation item 235-474, Area Health 76672
Education Centers Program Support, shall be used by the Board of 76673
Regents to support the medical school regional area health 76674
education centers' educational programs for the continued support 76675
of medical and other health professions education and for support 76676
of the Area Health Education Center Program. 76677

Of the foregoing appropriation item 235-474, Area Health 76678
Education Centers Program Support, \$159,158 in each fiscal year 76679
shall be disbursed to the Ohio University College of Osteopathic 76680
Medicine to operate a mobile health care unit to serve the 76681
southeastern area of the state. 76682

Of the foregoing appropriation item 235-474, Area Health 76683
Education Centers Program Support, \$119,369 in each fiscal year 76684
shall be used to support the Ohio Valley Community Health 76685

Information Network (OVCHIN) project. 76686

Section 209.63.57. STATE SHARE OF INSTRUCTION 76687

As soon as practicable during each fiscal year of the 76688
biennium ending June 30, 2007, in accordance with instructions of 76689
the Board of Regents, each state-assisted institution of higher 76690
education shall report its actual enrollment to the Board of 76691
Regents. 76692

The Board of Regents shall establish procedures required by 76693
the system of formulas set out below and for the assignment of 76694
individual institutions to categories described in the formulas. 76695
The system of formulas establishes the manner in which aggregate 76696
expenditure requirements shall be determined for each of the three 76697
components of institutional operations. In addition to other 76698
adjustments and calculations described below, the subsidy 76699
entitlement of an institution shall be determined by subtracting 76700
from the institution's aggregate expenditure requirements income 76701
to be derived from the local contributions assumed in calculating 76702
the subsidy entitlements. The local contributions for purposes of 76703
determining subsidy support shall not limit the authority of the 76704
individual boards of trustees to establish fee levels. 76705

The General Studies and Technical models shall be adjusted by 76706
the Board of Regents so that the share of state subsidy earned by 76707
those models is not altered by changes in the overall local share. 76708
A lower-division fee differential shall be used to maintain the 76709
relationship that would have occurred between these models and the 76710
baccalaureate models had an assumed share of 37 per cent been 76711
funded. 76712

In defining the number of full-time equivalent (FTE) students 76713
for state subsidy purposes, the Board of Regents shall exclude all 76714
undergraduate students who are not residents of Ohio, except those 76715

charged in-state fees in accordance with reciprocity agreements	76716	
made under section 3333.17 of the Revised Code or employer	76717	
contracts entered into under section 3333.32 of the Revised Code.	76718	
(A) AGGREGATE EXPENDITURE PER FULL-TIME EQUIVALENT STUDENT	76719	
(1) INSTRUCTION AND SUPPORT SERVICES	76720	
MODEL	FY 2006	76721
General Studies I	\$ 4,655	76722
General Studies II	\$ 5,135	76723
General Studies III	\$ 6,365	76724
Technical I	\$ 5,926	76725
Technical III	\$ 9,107	76726
Baccalaureate I	\$ 7,160	76727
Baccalaureate II	\$ 8,235	76728
Baccalaureate III	\$ 11,841	76729
Masters and Professional I	\$ 19,088	76730
Masters and Professional II	\$ 20,984	76731
Masters and Professional III	\$ 27,234	76732
Medical I	\$ 29,143	76733
Medical II	\$ 37,172	76734
MPD I	\$ 13,645	76735
(2) STUDENT SERVICES		76736
For this purpose, FTE counts shall be weighted to reflect		76737
differences among institutions in the numbers of students enrolled		76738
on a part-time basis. The student services subsidy per FTE shall		76739
be \$890 in fiscal year 2006 for all models.		76740
(B) PLANT OPERATION AND MAINTENANCE (POM)		76741
(1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY		76742
Space undergoing renovation shall be funded at the rate		76743
allowed for storage space.		76744
In the calculation of square footage for each campus, square		76745

footage shall be weighted to reflect differences in space utilization. 76746
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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. 76748
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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. 76753
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The square-foot-based plant operation and maintenance subsidy for each campus shall be determined as follows: 76757
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(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: 76759
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	FY 2006	
Classrooms	\$5.86	76764 76765
Laboratories	\$7.31	76766
Offices	\$5.86	76767
Audio Visual Data Processing	\$7.31	76768
Storage	\$2.59	76769
Circulation	\$7.39	76770
Other	\$5.86	76771

(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. 76772
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(c) The amounts allocated to models in division (B)(1)(b) of 76776

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 76785

(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	76790
General Studies II	\$ 662	76791
General Studies III	\$1,464	76792
Technical I	\$ 752	76793
Technical III	\$1,343	76794
Baccalaureate I	\$ 639	76795
Baccalaureate II	\$1,149	76796
Baccalaureate III	\$1,262	76797
Masters and Professional I	\$1,258	76798
Masters and Professional II	\$2,446	76799
Masters and Professional III	\$3,276	76800
Medical I	\$1,967	76801
Medical II	\$3,908	76802
MPD I	\$1,081	76803

(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.	76809
(C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS	76810
(1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS	76811
The calculation of the core subsidy entitlement shall consist	76812
of the following components:	76813
(a) For each campus in fiscal year 2006, the core subsidy	76814
entitlement shall be determined by multiplying the amounts listed	76815
above in divisions (A)(1) and (2) and (B)(2) of this section less	76816
assumed local contributions, by (i) average subsidy-eligible FTEs	76817
for the two-year period ending in the prior year for all models	76818
except Doctoral I and Doctoral II; and (ii) average	76819
subsidy-eligible FTEs for the five-year period ending in the prior	76820
year for all models except Doctoral I and Doctoral II.	76821
(b) In calculating the core subsidy entitlements for Medical	76822
II models only, the Board of Regents shall use the following count	76823
of FTE students:	76824
(i) For those medical schools whose current year enrollment,	76825
including students repeating terms, is below the base enrollment,	76826
the Medical II FTE enrollment shall equal: 65 per cent of the base	76827
enrollment plus 35 per cent of the current year enrollment	76828
including students repeating terms, where the base enrollment is:	76829
The Ohio State University	1010 76830
University of Cincinnati	833 76831
Medical University of Ohio at Toledo	650 76832
Wright State University	433 76833
Ohio University	433 76834
Northeastern Ohio Universities College of	433 76835
Medicine	
(ii) For those medical schools whose current year enrollment,	76836
excluding students repeating terms, is equal to or greater than	76837

the base enrollment, the Medical II FTE enrollment shall equal the 76838
base enrollment plus the FTE for repeating students. 76839

(iii) Students repeating terms may be no more than five per 76840
cent of current year enrollment. 76841

(c) The Board of Regents shall compute the sum of the two 76842
calculations listed in division (C)(1)(a) of this section and use 76843
the greater sum as the core subsidy entitlement. 76844

The POM subsidy for each campus shall equal the greater of 76845
the square-foot-based subsidy or the activity-based POM subsidy 76846
component of the core subsidy entitlement. 76847

(d) The state share of instruction provided for doctoral 76848
students shall be based on a fixed percentage of the total 76849
appropriation. In fiscal year 2006 not more than 10.34 per cent of 76850
the total state share of instruction shall be reserved to 76851
implement the recommendations of the Graduate Funding Commission. 76852
It is the intent of the General Assembly that the doctoral reserve 76853
not exceed 10.34 per cent of the total state share of instruction 76854
to implement the recommendations of the Graduate Funding 76855
Commission. The Board of Regents may reallocate up to two per cent 76856
in fiscal year 2006 of the reserve among the state-assisted 76857
universities on the basis of a quality review as specified in the 76858
recommendations of the Graduate Funding Commission. No such 76859
reallocation shall occur unless the Board of Regents, in 76860
consultation with representatives of state-assisted universities, 76861
determines that sufficient funds are available for this purpose. 76862

The amount so reserved shall be allocated to universities in 76863
proportion to their share of the total number of Doctoral I 76864
equivalent FTEs as calculated on an institutional basis using the 76865
greater of the two-year or five-year FTEs for the period fiscal 76866
year 1994 through fiscal year 1998 with annualized FTEs for fiscal 76867
years 1994 through 1997 and all-term FTEs for fiscal year 1998 as 76868

adjusted to reflect the effects of doctoral review and subsequent 76869
changes in Doctoral I equivalent enrollments. For the purposes of 76870
this calculation, Doctoral I equivalent FTEs shall equal the sum 76871
of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs. 76872

If a university participates in the Innovation Incentive 76873
Program outlined in appropriation item 235-433, Economic Growth 76874
Challenge, then the Board of Regents shall withhold 1.5 per cent 76875
in fiscal year 2006 of the participating university's allocation 76876
of the doctoral reserve. This withholding is intended to increase 76877
incrementally with a goal of setting aside 15 per cent of the 76878
total doctoral reserve by fiscal year 2016. 76879

The Board of Regents shall use the combined amount of each 76880
participating university's set aside of the doctoral reserve that 76881
has been withheld and the state matching funds earmarked under 76882
appropriation item 235-433, Economic Growth Challenge, to make 76883
awards through a competitive process under the Innovation 76884
Incentive Program. Only universities electing to set aside the 76885
prescribed amount of their allocation of the doctoral reserve are 76886
eligible to compete for and receive Innovation Incentive awards. 76887
The participating universities shall use these awards to 76888
restructure their array of doctoral programs. 76889

(2) ANNUAL STATE SHARE OF INSTRUCTION FUNDING STOP LOSS 76890

In addition to and after the other adjustment noted above, in 76891
fiscal year 2006, no campus shall receive a state share of 76892
instruction allocation that is less than 97 per cent of the prior 76893
year's state share of instruction amount. 76894

(3) REDUCTIONS IN EARNINGS 76895

If the total state share of instruction earnings in fiscal 76896
year 2006 exceeds the total appropriations available for such 76897
purposes, the Board of Regents shall proportionately reduce the 76898
state share of instruction earnings for all campuses by a uniform 76899

percentage so that the system wide sum equals available 76900
appropriations. 76901

(4) CAPITAL COMPONENT DEDUCTION 76902

After all other adjustments have been made, state share of 76903
instruction earnings shall be reduced for each campus by the 76904
amount, if any, by which debt service charged in Am. H.B. No. 748 76905
of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd 76906
General Assembly, Am. Sub. H.B. No. 640 of the 123rd General 76907
Assembly, and H.B. No. 675 of the 124th General Assembly, and Am. 76908
Sub. H.B. 16 of the 126th General Assembly for that campus exceeds 76909
that campus's capital component earnings. The sum of the amounts 76910
deducted shall be transferred to appropriation item 235-552, 76911
Capital Component, in fiscal year 2006. 76912

(D) EXCEPTIONAL CIRCUMSTANCES 76913

Adjustments may be made to the state share of instruction 76914
payments and other subsidies distributed by the Board of Regents 76915
to state-assisted colleges and universities for exceptional 76916
circumstances. No adjustments for exceptional circumstances may be 76917
made without the recommendation of the Chancellor and the approval 76918
of the Controlling Board. 76919

(E) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF 76920
INSTRUCTION 76921

The standard provisions of the state share of instruction 76922
calculation as described in the preceding sections of temporary 76923
law shall apply to any reductions made to appropriation item 76924
235-501, State Share of Instruction, before the Board of Regents 76925
has formally approved the final allocation of the state share of 76926
instruction funds for fiscal year 2006. 76927

Any reductions made to appropriation item 235-501, State 76928
Share of Instruction, after the Board of Regents has formally 76929

approved the final allocation of the state share of instruction 76930
funds for fiscal year 2006, shall be uniformly applied to each 76931
campus in proportion to its share of the final allocation. 76932

(F) DISTRIBUTION OF STATE SHARE OF INSTRUCTION 76933

The state share of instruction payments to the institutions 76934
shall be in substantially equal monthly amounts during the fiscal 76935
year, unless otherwise determined by the Director of Budget and 76936
Management pursuant to section 126.09 of the Revised Code. 76937
Payments during the first six months of the fiscal year shall be 76938
based upon the state share of instruction appropriation estimates 76939
made for the various institutions of higher education according to 76940
Board of Regents enrollment estimates. Payments during the last 76941
six months of the fiscal year shall be distributed after approval 76942
of the Controlling Board upon the request of the Board of Regents. 76943

(G) LAW SCHOOL SUBSIDY 76944

The state share of instruction to state-supported 76945
universities for students enrolled in law schools in fiscal year 76946
2006 shall be calculated by using the number of subsidy-eligible 76947
FTE law school students funded by state subsidy in fiscal year 76948
1995 or the actual number of subsidy-eligible FTE law school 76949
students at the institution in the fiscal year, whichever is less. 76950

By January 15, 2006, the General Assembly shall develop a 76951
plan to provide a new, improved state share of instruction formula 76952
and additional itemized appropriations for the Board of Regents 76953
for fiscal year 2007. In anticipation of a new, improved state 76954
share of instruction formula, which shall include a review of the 76955
allocation of courses to the Medical I and Medical II models, and 76956
higher education reform plan to be enacted before fiscal year 76957
2007, the foregoing appropriation item 235-501, State Share of 76958
Instruction, is hereby appropriated. 76959

Section 209.63.60. HIGHER EDUCATION - BOARD OF TRUSTEES 76960

Funds appropriated for instructional subsidies at colleges 76961
and universities may be used to provide such branch or other 76962
off-campus undergraduate courses of study and such master's degree 76963
courses of study as may be approved by the Board of Regents. 76964

In providing instructional and other services to students, 76965
boards of trustees of state-assisted institutions of higher 76966
education shall supplement state subsidies by income from charges 76967
to students. Each board shall establish the fees to be charged to 76968
all students, including an instructional fee for educational and 76969
associated operational support of the institution and a general 76970
fee for noninstructional services, including locally financed 76971
student services facilities used for the benefit of enrolled 76972
students. The instructional fee and the general fee shall 76973
encompass all charges for services assessed uniformly to all 76974
enrolled students. Each board may also establish special purpose 76975
fees, service charges, and fines as required; such special purpose 76976
fees and service charges shall be for services or benefits 76977
furnished individual students or specific categories of students 76978
and shall not be applied uniformly to all enrolled students. 76979
Except for the board of trustees of Miami University, in 76980
implementing the pilot tuition restructuring plan recognized in 76981
Section 89.05 of Am. Sub. H.B. 95 of the 125th General Assembly 76982
and again recognized by this act, a tuition surcharge shall be 76983
paid by all students who are not residents of Ohio. 76984

The boards of trustees of individual state-assisted 76985
universities, university branch campuses, community colleges, 76986
state community colleges, and technical colleges shall limit 76987
in-state undergraduate instructional and general fee increases for 76988
the 2005-2006 academic year over the amounts charged on January 1, 76989
2005, to no more than six per cent and for the 2006-2007 academic 76990

year to no more than six per cent over the amounts charged for the 76991
prior academic year. The boards of trustees of individual 76992
state-assisted universities, university branch campuses, community 76993
colleges, state community colleges, and technical colleges shall 76994
not authorize combined instructional and general fee increases of 76995
more than six per cent in a single vote. These limitations shall 76996
not apply to increases required to comply with institutional 76997
covenants related to their obligations or to meet unfunded legal 76998
mandates or legally binding obligations incurred or commitments 76999
made prior to the effective date of this section with respect to 77000
which the institution had identified such fee increases as the 77001
source of funds. Any increase required by such covenants and any 77002
such mandates, obligations, or commitments shall be reported by 77003
the Board of Regents to the Controlling Board. These limitations 77004
may also be modified by the Board of Regents, with the approval of 77005
the Controlling Board, to respond to exceptional circumstances as 77006
identified by the Board of Regents. 77007

The board of trustees of a state-assisted institution of 77008
higher education shall not authorize a waiver or nonpayment of 77009
instructional fees or general fees for any particular student or 77010
any class of students other than waivers specifically authorized 77011
by law or approved by the Chancellor. This prohibition is not 77012
intended to limit the authority of boards of trustees to provide 77013
for payments to students for services rendered the institution, 77014
nor to prohibit the budgeting of income for staff benefits or for 77015
student assistance in the form of payment of such instructional 77016
and general fees. This prohibition is not intended to limit the 77017
authority of the board of trustees of Miami University in 77018
providing financial assistance to students in implementing the 77019
pilot tuition restructuring plan recognized in Section 89.05 of 77020
Am. Sub. H.B. 95 of the 125th General Assembly and again 77021
recognized by this act. 77022

Except for Miami University, in implementing the pilot 77023
tuition restructuring plan recognized in Section 89.05 of Am. Sub. 77024
H.B. 95 of the 125th General Assembly and again recognized by this 77025
act, each state-assisted institution of higher education in its 77026
statement of charges to students shall separately identify the 77027
instructional fee, the general fee, the tuition charge, and the 77028
tuition surcharge. Fee charges to students for instruction shall 77029
not be considered to be a price of service but shall be considered 77030
to be an integral part of the state government financing program 77031
in support of higher educational opportunity for students. 77032

In providing the appropriations in support of instructional 77033
services at state-assisted institutions of higher education and 77034
the appropriations for other instruction it is the intent of the 77035
General Assembly that faculty members shall devote a proper and 77036
judicious part of their work week to the actual instruction of 77037
students. Total class credit hours of production per quarter per 77038
full-time faculty member is expected to meet the standards set 77039
forth in the budget data submitted by the Board of Regents. 77040

The authority of government vested by law in the boards of 77041
trustees of state-assisted institutions of higher education shall 77042
in fact be exercised by those boards. Boards of trustees may 77043
consult extensively with appropriate student and faculty groups. 77044
Administrative decisions about the utilization of available 77045
resources, about organizational structure, about disciplinary 77046
procedure, about the operation and staffing of all auxiliary 77047
facilities, and about administrative personnel shall be the 77048
exclusive prerogative of boards of trustees. Any delegation of 77049
authority by a board of trustees in other areas of responsibility 77050
shall be accompanied by appropriate standards of guidance 77051
concerning expected objectives in the exercise of such delegated 77052
authority and shall be accompanied by periodic review of the 77053
exercise of this delegated authority to the end that the public 77054

interest, in contrast to any institutional or special interest, 77055
shall be served. 77056

Section 209.63.63. STUDENT SUPPORT SERVICES 77057

The foregoing appropriation item 235-502, Student Support 77058
Services, shall be distributed by the Board of Regents to Ohio's 77059
state-assisted colleges and universities that incur 77060
disproportionate costs in the provision of support services to 77061
disabled students. 77062

Section 209.63.66. OHIO INSTRUCTIONAL GRANTS 77063

In fiscal year 2006, instructional grants for all eligible 77064
full-time students shall be made using the tables under section 77065
3333.12 of the Revised Code. In fiscal year 2007, instructional 77066
grants for all eligible full-time students who have attended a 77067
college, university, or proprietary school and have completed 77068
coursework for college credit, excluding early college high school 77069
and post secondary enrollment option students, prior to academic 77070
year 2006-2007, shall be made using the tables under section 77071
3333.12 of the Revised Code. 77072

Of the foregoing appropriation item 235-503, Ohio 77073
Instructional Grants, an amount in each fiscal year shall be used 77074
to make the payments authorized by division (C) of section 3333.26 77075
of the Revised Code to the institutions described in that 77076
division. In addition, an amount in each fiscal year shall be used 77077
to reimburse the institutions described in division (B) of section 77078
3333.26 of the Revised Code for the cost of the waivers required 77079
by that division. 77080

The unencumbered balance of appropriation item 235-503, Ohio 77081
Instructional Grants, at the end of fiscal year 2006 shall be 77082
transferred to fiscal year 2007 for use under the same 77083
appropriation item. The amounts transferred are hereby 77084

appropriated. 77085

Section 209.63.69. WAR ORPHANS SCHOLARSHIPS 77086

The foregoing appropriation item 235-504, War Orphans 77087
Scholarships, shall be used to reimburse state-assisted 77088
institutions of higher education for waivers of instructional fees 77089
and general fees provided by them, to provide grants to 77090
institutions that have received a certificate of authorization 77091
from the Ohio Board of Regents under Chapter 1713. of the Revised 77092
Code, in accordance with the provisions of section 5910.04 of the 77093
Revised Code, and to fund additional scholarship benefits provided 77094
by section 5910.032 of the Revised Code. 77095

Section 209.63.72. OHIOLINK 77096

The foregoing appropriation item 235-507, OhioLINK, shall be 77097
used by the Board of Regents to support OhioLINK, the state's 77098
electronic library information and retrieval system, which 77099
provides access statewide to the library holdings of all of Ohio's 77100
public colleges and universities, 40 private colleges, and the 77101
State Library of Ohio. 77102

Section 209.63.75. AIR FORCE INSTITUTE OF TECHNOLOGY 77103

The foregoing appropriation item 235-508, Air Force Institute 77104
of Technology, shall be used to strengthen the research and 77105
educational linkages between the Wright Patterson Air Force Base 77106
and institutions of higher education in Ohio. Of the foregoing 77107
appropriation item 235-508, Air Force Institute of Technology, 77108
\$1,233,588 in each fiscal year shall be used for research projects 77109
that connect the Air Force Research Laboratories with university 77110
partners. The institute shall provide annual reports to the Third 77111
Frontier Commission, that discuss existing, planned, or possible 77112
collaborations between programs and funding recipients related to 77113

technology, research development, commercialization, and support 77114
for Ohio's economic development. 77115

Of the foregoing appropriation item 235-508, Air Force 77116
Institute of Technology, \$691,757 in each fiscal year shall be 77117
used to match federal dollars to support technology 77118
commercialization and job creation. The Development Research 77119
Corporation shall use the funds to create or expand Ohio-based 77120
technology and commercial development collaborations in areas that 77121
are a priority in Ohio's third frontier initiative between 77122
industry, academia, and government. 77123

Section 209.63.78. OHIO SUPERCOMPUTER CENTER 77124

The foregoing appropriation item 235-510, Ohio Supercomputer 77125
Center, shall be used by the Board of Regents to support the 77126
operation of the center, located at The Ohio State University, as 77127
a statewide resource available to Ohio research universities both 77128
public and private. It is also intended that the center be made 77129
accessible to private industry as appropriate. Policies of the 77130
center shall be established by a governance committee, 77131
representative of Ohio's research universities and private 77132
industry, to be appointed by the Chancellor of the Board of 77133
Regents and established for this purpose. 77134

The Ohio Supercomputer Center shall report on expanding 77135
solutions-oriented, computational science services to industrial 77136
and other customers, including alignment programs and recipients, 77137
and develop a plan for a computational science initiative in 77138
collaboration with the Wright Centers of Innovation Program. 77139

Section 209.63.81. COOPERATIVE EXTENSION SERVICE 77140

The foregoing appropriation item 235-511, Cooperative 77141
Extension Service, shall be disbursed through the Board of Regents 77142
to The Ohio State University in monthly payments, unless otherwise 77143

determined by the Director of Budget and Management under section 77144
126.09 of the Revised Code. 77145

Of the foregoing appropriation item 235-511, Cooperative 77146
Extension Service, \$178,271 in each fiscal year shall be used for 77147
additional staffing for county agents for expanded 4-H activities. 77148
Of the foregoing appropriation item 235-511, Cooperative Extension 77149
Service, \$178,271 in each fiscal year shall be used by the 77150
Cooperative Extension Service, through the Enterprise Center for 77151
Economic Development in cooperation with other agencies, for a 77152
public-private effort to create and operate a small business 77153
economic development program to enhance the development of 77154
alternatives to the growing of tobacco, and implement, through 77155
applied research and demonstration, the production and marketing 77156
of other high-value crops and value-added products. Of the 77157
foregoing appropriation item 235-511, Cooperative Extension 77158
Service, \$55,179 in each fiscal year shall be used for farm labor 77159
mediation and education programs, \$182,515 in each fiscal year 77160
shall be used to support the Ohio State University Marion 77161
Enterprise Center, and \$772,931 in each fiscal year shall be used 77162
to support the Ohio Watersheds Initiative. 77163

Section 209.63.84. OHIO UNIVERSITY VOINOVICH CENTER 77164

The foregoing appropriation item 235-513, Ohio University 77165
Voinovich Center, shall be used by the Board of Regents to support 77166
the operations of Ohio University's Voinovich Center. 77167

Section 209.63.87. CENTRAL STATE SUPPLEMENT 77168

The foregoing appropriation item 235-514, Central State 77169
Supplement, shall be used by Central State University to keep 77170
undergraduate fees below the statewide average, consistent with 77171
its mission of service to many first-generation college students 77172
from groups historically underrepresented in higher education and 77173

from families with limited incomes.	77174
Section 209.63.93. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF MEDICINE	77175 77176
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.	77177 77178 77179 77180 77181 77182 77183
Section 209.63.96. SHAWNEE STATE SUPPLEMENT	77184
The foregoing appropriation item 235-520, Shawnee State Supplement, shall be used by Shawnee State University as detailed by both of the following:	77185 77186 77187
(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;	77188 77189 77190 77191
(B) To allow Shawnee State University to employ new faculty to develop and teach in new degree programs that meet the needs of Appalachians.	77192 77193 77194
Section 209.63.99. OSU GLENN INSTITUTE	77195
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.	77196 77197 77198 77199
Section 209.64.03. POLICE AND FIRE PROTECTION	77200

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

77228

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 77237

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 77244
77245

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 77259
continuing to internally allocate on a competitive basis 77260
appropriated funding of programs based on demonstrated 77261
performance. Academic units, faculty, and faculty-driven programs 77262
shall be evaluated and rewarded consistent with agreed-upon 77263
performance expectations as called for in the College's 77264
Expectations and Criteria for Performance Assessment. 77265

Of the foregoing appropriation item 235-535, Ohio 77266
Agricultural Research and Development Center, \$458,410 in each 77267
fiscal year shall be used to purchase equipment. 77268

Of the foregoing appropriation item 235-535, Ohio 77269
Agricultural Research and Development Center, \$806,463 in each 77270
fiscal year shall be distributed to the Piketon Agricultural 77271
Research and Extension Center. 77272

Of the foregoing appropriation item 235-535, Ohio 77273
Agricultural Research and Development Center, \$212,227 in each 77274
fiscal year shall be distributed to the 77275
Raspberry/Strawberry-Ellagic Acid Research program at The Ohio 77276
State University Medical College in cooperation with The Ohio 77277
State University College of Agriculture. 77278

Of the foregoing appropriation item 235-535, Ohio 77279
Agricultural Research and Development Center, \$42,445 in each 77280
fiscal year shall be used to support the Ohio Berry Administrator. 77281

Of the foregoing appropriation item 235-535, Ohio 77282
Agricultural Research and Development Center, \$84,890 in each 77283
fiscal year shall be used for the development of agricultural 77284
crops and products not currently in widespread production in Ohio, 77285
in order to increase the income and viability of family farmers. 77286

Section 209.64.24. PART-TIME STUDENT INSTRUCTIONAL GRANTS 77287

The foregoing appropriation item 235-549, Part-time Student 77288

Instructional Grants, shall be used to support a grant program for 77289
part-time undergraduate students who are Ohio residents and who 77290
were enrolled in degree granting programs prior to academic year 77291
2006-2007. 77292

Eligibility for participation in the program shall include 77293
degree granting educational institutions that hold a certificate 77294
of registration from the State Board of Career Colleges and 77295
Schools, and nonprofit institutions that have a certificate of 77296
authorization issued under Chapter 1713. of the Revised Code, as 77297
well as state-assisted colleges and universities. Grants shall be 77298
given to students on the basis of need, as determined by the 77299
college, which, in making these determinations, shall give special 77300
consideration to single-parent heads-of-household and displaced 77301
homemakers who enroll in an educational degree program that 77302
prepares the individual for a career. In determining need, the 77303
college also shall consider the availability of educational 77304
assistance from a student's employer. It is the intent of the 77305
General Assembly that these grants not supplant such assistance. 77306

Section 209.64.27. CAPITAL COMPONENT 77307

The foregoing appropriation item 235-552, Capital Component, 77308
shall be used by the Board of Regents to implement the capital 77309
funding policy for state-assisted colleges and universities 77310
established in Am. H.B. No. 748 of the 121st General Assembly. 77311
Appropriations from this item shall be distributed to all campuses 77312
for which the estimated campus debt service attributable to new 77313
qualifying capital projects is less than the campus's 77314
formula-determined capital component allocation. Campus 77315
allocations shall be determined by subtracting the estimated 77316
campus debt service attributable to new qualifying capital 77317
projects from the campus's formula-determined capital component 77318
allocation. Moneys distributed from this appropriation item shall 77319

be restricted to capital-related purposes. 77320

Any campus for which the estimated campus debt service 77321
attributable to qualifying capital projects is greater than the 77322
campus's formula-determined capital component allocation shall 77323
have the difference subtracted from its State Share of Instruction 77324
allocation in each fiscal year. The sum of all such amounts shall 77325
be transferred from appropriation item 235-501, State Share of 77326
Instruction, to appropriation item 235-552, Capital Component. 77327

Section 209.64.30. DAYTON AREA GRADUATE STUDIES INSTITUTE 77328

The foregoing appropriation item 235-553, Dayton Area 77329
Graduate Studies Institute, shall be used by the Board of Regents 77330
to support the Dayton Area Graduate Studies Institute, an 77331
engineering graduate consortium of three universities in the 77332
Dayton area: Wright State University, the University of Dayton, 77333
and the Air Force Institute of Technology, with the participation 77334
of the University of Cincinnati and The Ohio State University. 77335

Of the foregoing appropriation item 235-553, Dayton Area 77336
Graduate Studies Institute, \$417,053 in each fiscal year shall be 77337
used by the Miami Valley Economic Development Research Corporation 77338
to support collaborative research between academia, industry, and 77339
the Air Force for the Wright Brothers Institute and related 77340
initiatives in nanomaterials and advanced data management and 77341
analysis. 77342

Section 209.64.33. PRIORITIES IN COLLABORATIVE GRADUATE 77343
EDUCATION 77344

The foregoing appropriation item 235-554, Priorities in 77345
Collaborative Graduate Education, shall be used by the Board of 77346
Regents to support improvements in graduate programs at 77347
state-assisted universities that the Board of Regents identifies 77348
as vital to the state's economic strategy. Up to \$169,782 in each 77349

fiscal year shall be used to support collaborative efforts in 77350
graduate education in this program area. The collaborative program 77351
shall be coordinated by the Board of Regents. 77352

Section 209.64.36. OHIO ACADEMIC RESOURCES NETWORK (OARNET) 77353

The foregoing appropriation item 235-556, Ohio Academic 77354
Resources Network, shall be used to support the operations of the 77355
Ohio Academic Resources Network, which shall include support for 77356
Ohio's state-assisted colleges and universities in maintaining and 77357
enhancing network connections. The network shall give priority to 77358
supporting the Third Frontier Network and allocating bandwidth to 77359
programs directly supporting Ohio's economic development. 77360

Section 209.64.39. LONG-TERM CARE RESEARCH 77361

The foregoing appropriation item 235-558, Long-term Care 77362
Research, shall be disbursed to Miami University for long-term 77363
care research. 77364

Section 209.64.42. MEDICAL SUPPORT 77365

The Board of Regents, in consultation with the state-assisted 77366
medical colleges, shall develop performance standards for medical 77367
education. Special emphasis in the standards shall be placed on 77368
attempting to ensure that at least 50 per cent of the aggregate 77369
number of students enrolled in state-assisted medical colleges 77370
continue to enter residency as primary care physicians. Primary 77371
care physicians are general family practice physicians, general 77372
internal medicine practitioners, and general pediatric care 77373
physicians. The Board of Regents shall monitor medical school 77374
performance in relation to their plans for reaching the 50 per 77375
cent system-wide standard for primary care physicians. 77376

Of the foregoing appropriation item 235-560, Medical Support, 77377
\$45,931,099 in fiscal year 2006 shall be used to support clinical 77378

teaching at Ohio's state-assisted colleges of medicine. Of this 77379
amount, The Ohio State University shall receive \$13,565,885 in 77380
fiscal year 2006; University of Cincinnati shall receive 77381
\$11,157,756 in fiscal year 2006; Medical University of Ohio at 77382
Toledo shall receive \$8,696,866 in fiscal year 2006; Wright State 77383
University shall receive \$4,225,107 in fiscal year 2006 and 77384
\$124,644 of this amount in fiscal year 2006 shall be for the use 77385
of Wright State University's Ellis Institute for Clinical Teaching 77386
Studies to operate the clinical facility to serve the Greater 77387
Dayton Area; Ohio University shall receive \$4,084,540 in fiscal 77388
year 2006; and Northeastern Ohio Universities College of Medicine 77389
shall receive \$4,200,945 in fiscal year 2006. These funds shall be 77390
distributed through the Board of Regents. 77391

By January 15, 2006, the General Assembly shall develop a 77392
plan to provide itemized appropriations to the Board of Regents 77393
for medical support programs for fiscal year 2007. In anticipation 77394
of a new, improved allocation of funds for medical support 77395
programs to be enacted before fiscal year 2007, the foregoing 77396
appropriation item 235-560, Medical Support, is hereby 77397
appropriated. 77398

Section 209.64.45. BOWLING GREEN STATE UNIVERSITY CANADIAN 77399
STUDIES CENTER 77400

The foregoing appropriation item 235-561, Bowling Green State 77401
University Canadian Studies Center, shall be used by the Canadian 77402
Studies Center at Bowling Green State University to study 77403
opportunities for Ohio and Ohio businesses to benefit from the 77404
Free Trade Agreement between the United States and Canada. 77405

Section 209.64.48. FAMILY PRACTICE AND PRIMARY CARE 77406
RESIDENCIES 77407

The Board of Regents shall develop plans consistent with 77408

existing criteria and guidelines as may be required for the 77409
distribution of appropriation item 235-562, Family Practice and 77410
Primary Care Residencies. 77411

Of the foregoing appropriation item 235-562, Family Practice 77412
and Primary Care Residencies, \$4,548,470 in fiscal year 2006 shall 77413
be distributed to Family Practice programs. 77414

Of the foregoing appropriation item 235-562, Family Practice 77415
and Primary Care Residencies, \$2,245,688 in fiscal year 2006 shall 77416
be distributed to Primary Care Residencies, based on whether or 77417
not the institution has submitted and gained approval for a 77418
primary care residency plan. If the institution does not have an 77419
approved plan, it shall receive five per cent less funding per 77420
student than it would have received from its annual allocation. 77421
The remaining funding shall be distributed among those 77422
institutions that meet or exceed their targets. 77423

Section 209.64.51. OHIO COLLEGE OPPORTUNITY GRANT PHASE-IN 77424

The foregoing appropriation item 235-563, Ohio College 77425
Opportunity Grant, shall be used by the Board of Regents to begin 77426
to award needs-based financial aid to students based on the United 77427
States Department of Education's method of determining financial 77428
need. Beginning in fiscal year 2007, students who enrolled in a 77429
public, private, or proprietary post-secondary institution of 77430
higher education for the first time in academic year 2006-2007, 77431
excluding early college high school and post-secondary enrollment 77432
option participants, shall be eligible to receive aid based on 77433
their expected family contributions as calculated by the United 77434
State Department of Education, according to section 3333.122 of 77435
the Revised Code. 77436

Section 209.64.54. THE OHIO STATE UNIVERSITY CLINIC SUPPORT 77437

The foregoing appropriation item 235-572, The Ohio State 77438

University Clinic Support, shall be distributed through the Board
of Regents to The Ohio State University for support of dental and
veterinary medicine clinics.

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Section 209.64.57. URBAN UNIVERSITY PROGRAMS

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Universities receiving funds from the foregoing appropriation
item 235-583, Urban University Programs, that are used to support
an ongoing university unit shall certify periodically in a manner
approved by the Board of Regents that program funds are being
matched on a one-to-one basis with equivalent resources. Overhead
support may not be used to meet this requirement. Where Urban
University Program funds are being used to support an ongoing
university unit, matching funds shall come from continuing rather
than one-time sources. At each participating state-assisted
institution of higher education, matching funds shall be within
the substantial control of the individual designated by the
institution's president as the Urban University Program
representative.

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Of the foregoing appropriation item 235-583, Urban University
Programs, \$247,453 in each fiscal year shall be used to support a
public communication outreach program (WCPN). The primary purpose
of the program shall be to develop a relationship between
Cleveland State University and nonprofit communications entities.

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Of the foregoing appropriation item 235-583, Urban University
Programs, \$117,215 in each fiscal year shall be used to support
the Center for the Interdisciplinary Study of Education and the
Urban Child at Cleveland State University. These funds shall be
distributed according to rules adopted by the Board of Regents and
shall be used by the center for interdisciplinary activities
targeted toward increasing the chance of lifetime success of the
urban child, including interventions beginning with the prenatal
period. The primary purpose of the center is to study issues in

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urban education and to systematically map directions for new 77470
approaches and new solutions by bringing together a cadre of 77471
researchers, scholars, and professionals representing the social, 77472
behavioral, education, and health disciplines. 77473

Of the foregoing appropriation item 235-583, Urban University 77474
Programs, \$169,310 in each fiscal year shall be used to support 77475
the Kent State University Learning and Technology Project. This 77476
project is a kindergarten through university collaboration between 77477
schools surrounding Kent State University's eight campuses in 77478
northeast Ohio and corporate partners who will assist in 77479
development and delivery. 77480

The Kent State University Project shall provide a faculty 77481
member who has a full-time role in the development of 77482
collaborative activities and teacher instructional programming 77483
between Kent State University and the K-12th grade schools that 77484
surround its eight campuses; appropriate student support staff to 77485
facilitate these programs and joint activities; and hardware and 77486
software to schools that will make possible the delivery of 77487
instruction to pre-service and in-service teachers, and their 77488
students, in their own classrooms or school buildings. This shall 77489
involve the delivery of low-bandwidth streaming video and 77490
web-based technologies in a distributed instructional model. 77491

Of the foregoing appropriation item 235-583, Urban University 77492
Programs, \$65,119 in each fiscal year shall be used to support the 77493
Ameritech Classroom/Center for Research at Kent State University. 77494

Of the foregoing appropriation item 235-583, Urban University 77495
Programs, \$651,192 in each fiscal year shall be used to support 77496
the Polymer Distance Learning Project at the University of Akron. 77497

Of the foregoing appropriation item 235-583, Urban University 77498
Programs, \$32,560 in each fiscal year shall be distributed to the 77499
Kent State University/Cleveland Design Center program. 77500

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 77531
each fiscal year, Miami University shall receive \$220,788 in each 77532
fiscal year, and Ohio University shall receive \$517,513 in each 77533
fiscal year. These funds shall be used to support the Institute 77534
for Local Government Administration and Rural Development at Ohio 77535
University, the Center for Public Management and Regional Affairs 77536
at Miami University, and the Center for Policy Analysis and Public 77537
Service at Bowling Green State University. 77538

A small portion of the funds provided to Ohio University 77539
shall also be used for the Institute for Local Government 77540
Administration and Rural Development State and Rural Policy 77541
Partnership with the Governor's Office of Appalachia and the 77542
Appalachian delegation of the General Assembly. 77543

Of the foregoing appropriation item 235-587, Rural University 77544
Projects, \$14,348 in each fiscal year shall be used to support the 77545
Washington State Community College day care center. 77546

Of the foregoing appropriation item 235-587, Rural University 77547
Projects, \$43,046 in each fiscal year shall be used to support the 77548
COAD/ILGARD/GOA Appalachian Leadership Initiative. 77549

Section 209.64.63. HAZARDOUS MATERIALS PROGRAM 77550

The foregoing appropriation item 235-596, Hazardous Materials 77551
Program, shall be disbursed to Cleveland State University for the 77552
operation of a program to certify firefighters for the handling of 77553
hazardous materials. Training shall be available to all Ohio 77554
firefighters. 77555

Of the foregoing appropriation item 235-596, Hazardous 77556
Materials Program, \$127,337 in each fiscal year shall be used to 77557
support the Center for the Interdisciplinary Study of Education 77558
and Leadership in Public Service at Cleveland State University. 77559
These funds shall be distributed by the Board of Regents and shall 77560

be used by the center targeted toward increasing the role of 77561
special populations in public service and not-for-profit 77562
organizations. The primary purpose of the center is to study 77563
issues in public service and to guide strategies for attracting 77564
new communities into public service occupations by bringing 77565
together a cadre of researchers, scholars, and professionals 77566
representing the public administration, social behavioral, and 77567
education disciplines. 77568

Section 209.64.66. NATIONAL GUARD SCHOLARSHIP PROGRAM 77569

The Board of Regents shall disburse funds from appropriation 77570
item 235-599, National Guard Scholarship Program, at the direction 77571
of the Adjutant General. The unencumbered balance of appropriation 77572
item 235-599, National Guard Scholarship Program, at the end of 77573
each fiscal year shall be transferred under section 5919.341 of 77574
the Revised Code to the National Guard Scholarship Reserve Fund 77575
(Fund 5BM) for use under appropriation item 235-623, National 77576
Guard Scholarship Reserve Fund. Upon the request of the Adjutant 77577
General, the Board of Regents shall seek Controlling Board 77578
approval to establish appropriations in item 235-623, National 77579
Guard Scholarship Reserve Fund. 77580

Section 209.64.69. * PLEDGE OF FEES 77581

Any new pledge of fees, or new agreement for adjustment of 77582
fees, made in the biennium ending June 30, 2007, to secure bonds 77583
or notes of a state-assisted institution of higher education for a 77584
project for which bonds or notes were not outstanding on the 77585
effective date of this section shall be effective only after 77586
approval by the Board of Regents, unless approved in a previous 77587
biennium. 77588

Section 209.64.72. HIGHER EDUCATION GENERAL OBLIGATION DEBT 77589

SERVICE 77590

The foregoing appropriation item 235-909, Higher Education 77591
General Obligation Debt Service, shall be used to pay all debt 77592
service and related financing costs at the times they are required 77593
to be made under sections 151.01 and 151.04 of the Revised Code 77594
during the period from July 1, 2005, to June 30, 2007. The Office 77595
of the Sinking Fund or the Director of Budget and Management shall 77596
effectuate the required payments by intrastate transfer voucher. 77597

Section 209.64.75. SALES AND SERVICES 77598

The Board of Regents is authorized to charge and accept 77599
payment for the provision of goods and services. Such charges 77600
shall be reasonably related to the cost of producing the goods and 77601
services. No charges may be levied for goods or services that are 77602
produced as part of the routine responsibilities or duties of the 77603
Board. All revenues received by the Board of Regents shall be 77604
deposited into Fund 456, and may be used by the Board of Regents 77605
to pay for the costs of producing the goods and services. 77606

Section 209.64.76. OHIO HIGHER EDUCATIONAL FACILITY 77607

COMMISSION SUPPORT 77608

The foregoing appropriation item 235-602, Higher Educational 77609
Facility Commission Administration, shall be used by the Board of 77610
Regents for operating expenses related to the Board of Regents' 77611
support of the activities of the Ohio Higher Educational Facility 77612
Commission. Upon the request of the chancellor, the Director of 77613
Budget and Management shall transfer up to \$55,000 cash from Fund 77614
461 to Fund 4E8 in each fiscal year of the biennium. 77615

Section 209.64.78. PHYSICIAN LOAN REPAYMENT 77616

The foregoing appropriation item 235-604, Physician Loan 77617

Repayment, shall be used in accordance with sections 3702.71 to 77618
3702.81 of the Revised Code. 77619

Section 209.64.81. NURSING LOAN PROGRAM 77620

The foregoing appropriation item 235-606, Nursing Loan 77621
Program, shall be used to administer the nurse education 77622
assistance program. Up to \$159,600 in fiscal year 2006 and 77623
\$167,580 in fiscal year 2007 may be used for operating expenses 77624
associated with the program. Any additional funds needed for the 77625
administration of the program are subject to Controlling Board 77626
approval. 77627

Section 209.64.84. SCIENCE AND TECHNOLOGY COLLABORATION 77628

The Board of Regents shall work in close collaboration with 77629
the Department of Development, the Air Quality Development 77630
Authority, and the Third Frontier Commission in relation to 77631
appropriation items and programs referred to as Alignment Programs 77632
in the following paragraph, and other technology-related 77633
appropriations and programs in the Department of Development, Air 77634
Quality Development Authority, and the Board of Regents as these 77635
agencies may designate, to ensure implementation of a coherent 77636
state strategy with respect to science and technology. 77637

"Alignment Programs" means: appropriation items 195-401, 77638
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 77639
Third Frontier Action Fund; 898-604, Coal Research and Development 77640
Fund; 235-433, Economic Growth Challenge; 235-451, Eminent 77641
Scholars; 235-508, Air Force Institute of Technology; 235-510, 77642
Ohio Supercomputer Center; 235-527, Ohio Aerospace Institute; 77643
235-535, Ohio Agricultural Research and Development Center; 77644
235-553, Dayton Area Graduate Studies Institute; 235-554, 77645
Priorities in Collaborative Graduate Education; 235-556, Ohio 77646
Academic Resources Network; and 195-435, Biomedical Research and 77647

Technology Transfer Trust. 77648

Consistent with the recommendations of the Governor's 77649
Commission on Higher Education and the Economy, Alignment Programs 77650
shall be managed and administered (1) to build on existing 77651
competitive research strengths; (2) to encourage new and emerging 77652
discoveries and commercialization of products and ideas that will 77653
benefit the Ohio economy; and (3) to assure improved collaboration 77654
among Alignment Programs, with programs administered by the Third 77655
Frontier Commission, and with other state programs that are 77656
intended to improve economic growth and job creation. 77657

If requested by the Third Frontier Commission, Alignment 77658
Programs managers shall report to the Commission or the Third 77659
Frontier Advisory Board, as directed by the Commission, on the 77660
contributions of their programs to achieving the objectives stated 77661
in the preceding paragraph of this section. 77662

Each alignment program shall be reviewed annually by the 77663
Third Frontier Commission with respect to its development of 77664
complementary relationships within a combined state science and 77665
technology investment portfolio and its overall contribution to 77666
the state's science and technology strategy, including the 77667
adoption of appropriately consistent criteria for: (1) the 77668
scientific merit of activities supported by the program; (2) the 77669
relevance of the program's activities to commercial opportunities 77670
in the private sector; (3) the private sector's involvement in a 77671
process that continually evaluates commercial opportunities to use 77672
the work supported by the program; and (4) the ability of the 77673
program and recipients of grant funding from the program to engage 77674
in activities that are collaborative, complementary, and efficient 77675
with respect to the expenditure of state funds. All programs 77676
listed above shall provide annual reports to the Third Frontier 77677
Commission discussing existing, planned, or possible 77678
collaborations between programs and recipients of grant funding 77679

related to technology, development, commercialization, and 77680
supporting Ohio's economic development. The annual review by the 77681
Third Frontier Commission shall be a comprehensive review of the 77682
entire state science and technology program portfolio rather than 77683
a review of individual programs. 77684

Applicants for Third Frontier and Alignment Programs funding 77685
shall identify their requirements for high-performance computing 77686
facilities and services, including both hardware and software, in 77687
the proposals. If an applicant's requirements exceed approximately 77688
\$100,000 for a proposal, the Ohio Supercomputer Center shall 77689
convene a panel of experts. The panel shall review the proposal to 77690
determine whether the proposal's requirements can be met through 77691
Ohio Supercomputer Center facilities or through other means and 77692
report such information to the Third Frontier Commission. 77693

To ensure that the state receives the maximum benefit from 77694
its investment in the Third Frontier Project and the Third 77695
Frontier Network, organizations receiving Third Frontier awards 77696
and Alignment Programs awards shall, as appropriate, be expected 77697
to have a connection to the Third Frontier Network that enables 77698
them and their collaborators to achieve award objectives through 77699
the Third Frontier Network. 77700

Section 209.64.87. REPAYMENT OF RESEARCH FACILITY INVESTMENT 77701
FUND MONEYS 77702

Notwithstanding any provision of law to the contrary, all 77703
repayments of Research Facility Investment Fund loans shall be 77704
made to the Bond Service Trust Fund. All Research Facility 77705
Investment Fund loan repayments made prior to the effective date 77706
of this section shall be transferred by the Director of Budget and 77707
Management to the Bond Service Trust Fund within sixty days after 77708
the effective date of this section. 77709

Campuses shall make timely repayments of Research Facility 77710
Investment Fund loans, according to the schedule established by 77711
the Board of Regents. In the case of late payments, the Board of 77712
Regents may deduct from an institution's periodic subsidy 77713
distribution an amount equal to the amount of the overdue payment 77714
for that institution, transfer such amount to the Bond Service 77715
Trust Fund, and credit the appropriate institution for the 77716
repayment. 77717

Section 209.64.90. VETERANS' PREFERENCES 77718

The Board of Regents shall work with the Governor's Office of 77719
Veterans' Affairs to develop specific veterans' preference 77720
guidelines for higher education institutions. These guidelines 77721
shall ensure that the institutions' hiring practices are in 77722
accordance with the intent of Ohio's veterans' preference laws. 77723

Section 209.64.93. STATE NEED-BASED FINANCIAL AID 77724
RECONCILIATION 77725

By the first day of August in each fiscal year, or as soon 77726
thereafter as possible, the Ohio Board of Regents shall certify to 77727
the Director of Budget and Management the amount necessary to pay 77728
any outstanding prior year obligations to higher education 77729
institutions for the state's need-based financial aid programs. 77730
The amounts certified are hereby appropriated to appropriation 77731
item 235-618, State Need-based Financial Aid Reconciliation, from 77732
revenues received in the State Need-based Financial Aid 77733
Reconciliation Fund (Fund 5Y5). 77734

Section 209.69. DRC DEPARTMENT OF REHABILITATION AND 77735
CORRECTION 77736

General Revenue Fund 77737
GRF 501-321 Institutional \$ 854,371,490 \$ 870,888,880 77738

		Operations				
GRF	501-403	Prisoner Compensation	\$	8,599,255	\$	8,599,255 77739
GRF	501-405	Halfway House	\$	41,104,924	\$	41,105,128 77740
GRF	501-406	Lease Rental Payments	\$	132,370,500	\$	120,600,600 77741
GRF	501-407	Community	\$	15,383,471	\$	15,404,522 77742
		Nonresidential				
		Programs				
GRF	501-408	Community Misdemeanor	\$	8,041,489	\$	8,041,489 77743
		Programs				
GRF	501-501	Community Residential	\$	55,054,445	\$	55,054,445 77744
		Programs - CBCF				
GRF	502-321	Mental Health Services	\$	64,897,564	\$	66,055,754 77745
GRF	503-321	Parole and Community	\$	78,887,219	\$	80,708,911 77746
		Operations				
GRF	504-321	Administrative	\$	27,559,389	\$	28,147,730 77747
		Operations				
GRF	505-321	Institution Medical	\$	159,926,575	\$	176,500,628 77748
		Services				
GRF	506-321	Institution Education	\$	22,727,366	\$	23,114,615 77749
		Services				
GRF	507-321	Institution Recovery	\$	6,946,286	\$	7,090,212 77750
		Services				
TOTAL GRF		General Revenue Fund	\$	1,475,869,973	\$	1,501,312,169 77751
		General Services Fund Group				77752
148	501-602	Services and	\$	95,207,653	\$	95,207,653 77753
		Agricultural				
200	501-607	Ohio Penal Industries	\$	38,000,000	\$	38,000,000 77754
4B0	501-601	Penitentiary Sewer	\$	1,758,177	\$	1,758,177 77755
		Treatment Facility				
		Services				
4D4	501-603	Prisoner Programs	\$	20,967,703	\$	20,967,703 77756
4L4	501-604	Transitional Control	\$	1,593,794	\$	1,593,794 77757
4S5	501-608	Education Services	\$	4,564,072	\$	4,564,072 77758

483	501-605	Property Receipts	\$	393,491	\$	393,491	77759
5AF	501-609	State and Non-Federal	\$	262,718	\$	262,718	77760
		Awards					
5H8	501-617	Offender Financial	\$	2,000,000	\$	2,000,000	77761
		Responsibility					
5L6	501-611	Information Technology	\$	3,741,980	\$	3,741,980	77762
		Services					
571	501-606	Training Academy	\$	75,190	\$	75,190	77763
		Receipts					
593	501-618	Laboratory Services	\$	5,799,999	\$	5,799,999	77764
TOTAL GSF		General Services Fund	\$	174,364,777	\$	174,364,777	77765
Group							
Federal Special Revenue Fund Group							77766
3S1	501-615	Truth-In-Sentencing	\$	26,127,427	\$	26,127,427	77767
		Grants					
323	501-619	Federal Grants	\$	12,198,353	\$	12,198,353	77768
TOTAL FED		Federal Special Revenue					77769
Fund Group			\$	38,325,780	\$	38,325,780	77770
TOTAL ALL BUDGET FUND GROUPS			\$	1,688,560,530	\$	1,714,002,726	77771
CORRECTION OFFICER TO INMATE RATIO							77772
A \$6,000,000 total reduction in the original fiscal year 2006							77773
and fiscal year 2007 recommend appropriation for appropriation							77774
item 501-321, Institutional Operations, shall not affect the							77775
correction officer to inmate ratio.							77776
OHIO BUILDING AUTHORITY LEASE PAYMENTS							77777
The foregoing appropriation item 501-406, Lease Rental							77778
Payments, shall be used for payments to the Ohio Building							77779
Authority for the period July 1, 2005, to June 30, 2007, under the							77780
primary leases and agreements for those buildings made under							77781
Chapter 152. of the Revised Code but limited to the aggregate							77782
amount of \$252,971,100. This appropriation amount is the source of							77783

funds pledged for bond service charges on related obligations				77784
issued under Chapter 152. of the Revised Code.				77785
PRISONER COMPENSATION				77786
Money from the foregoing appropriation item 501-403, Prisoner				77787
Compensation, shall be transferred on a quarterly basis by				77788
intrastate transfer voucher to the Services and Agricultural Fund				77789
(Fund 148) for the purposes of paying prisoner compensation.				77790
Section 209.72. RSC REHABILITATION SERVICES COMMISSION				77791
General Revenue Fund				77792
GRF 415-100 Personal Services	\$	8,851,468	\$ 8,851,468	77793
GRF 415-402 Independent Living	\$	12,280	\$ 12,280	77794
Council				
GRF 415-403 Mental Health Services	\$	717,221	\$ 717,221	77795
GRF 415-404 MR/DD Services	\$	1,260,816	\$ 1,260,816	77796
GRF 415-405 Vocational	\$	536,912	\$ 536,912	77797
Rehabilitation/Job and				
Family Services				
GRF 415-406 Assistive Technology	\$	47,531	\$ 47,531	77798
GRF 415-431 Office for People with	\$	226,012	\$ 226,012	77799
Brain Injury				
GRF 415-506 Services for People	\$	12,185,215	\$ 12,185,215	77800
with Disabilities				
GRF 415-508 Services for the Deaf	\$	50,000	\$ 50,000	77801
GRF 415-509 Services for the	\$	359,377	\$ 359,377	77802
Elderly				
GRF 415-520 Independent Living	\$	50,000	\$ 50,000	77803
Services				
TOTAL GRF General Revenue Fund	\$	24,296,832	\$ 24,296,832	77804
General Services Fund Group				77805
4W5 415-606 Program Management	\$	18,557,040	\$ 18,557,040	77806

		Expenses				
467	415-609	Business Enterprise	\$	1,632,082	\$	1,632,082 77807
		Operating Expenses				
		TOTAL GSF General Services				77808
		Fund Group	\$	20,189,122	\$	20,189,122 77809
		Federal Special Revenue Fund Group				77810
3L1	415-601	Social Security	\$	3,743,740	\$	3,743,740 77811
		Personal Care				
		Assistance				
3L1	415-605	Social Security	\$	1,100,488	\$	1,100,488 77812
		Community Centers for				
		the Deaf				
3L1	415-607	Social Security	\$	175,860	\$	175,860 77813
		Administration Cost				
3L1	415-608	Social Security	\$	2,246,991	\$	131,716 77814
		Special				
		Programs/Assistance				
3L1	415-610	Social Security	\$	1,336,324	\$	1,338,324 77815
		Vocational				
		Rehabilitation				
3L1	415-614	Social Security	\$	154,942	\$	0 77816
		Independent Living				
3L4	415-612	Federal Independent	\$	894,662	\$	686,520 77817
		Living Centers or				
		Services				
3L4	415-615	Federal - Supported	\$	1,338,191	\$	1,338,191 77818
		Employment				
3L4	415-617	Independent	\$	1,508,885	\$	1,608,885 77819
		Living/Vocational				
		Rehabilitation				
		Programs				
317	415-620	Disability	\$	82,870,347	\$	87,999,369 77820
		Determination				

379	415-616	Federal - Vocational	\$	123,565,158	\$	119,998,470	77821
		Rehabilitation					
		TOTAL FED Federal Special					77822
		Revenue Fund Group	\$	218,935,588	\$	218,121,563	77823
		State Special Revenue Fund Group					77824
4L1	415-619	Services for	\$	4,500,000	\$	4,500,000	77825
		Rehabilitation					
468	415-618	Third Party Funding	\$	1,055,407	\$	1,105,407	77826
		TOTAL SSR State Special					77827
		Revenue Fund Group	\$	5,555,407	\$	5,605,407	77828
		TOTAL ALL BUDGET FUND GROUPS	\$	268,976,949	\$	268,212,924	77829
		INDEPENDENT LIVING COUNCIL					77830
		The foregoing appropriation item 415-402, Independent Living					77831
		Council, shall be used to fund the operations of the State					77832
		Independent Living Council.					77833
		MENTAL HEALTH SERVICES					77834
		The foregoing appropriation item 415-403, Mental Health					77835
		Services, shall be used for the provision of vocational					77836
		rehabilitation services to mutually eligible consumers of the					77837
		Rehabilitation Services Commission and the Department of Mental					77838
		Health.					77839
		The Rehabilitation Services Commission shall provide the					77840
		Department of Mental Health a quarterly report stating the numbers					77841
		served, numbers placed in employment, average hourly wage, and					77842
		average hours worked.					77843
		MR/DD SERVICES					77844
		The foregoing appropriation item 415-404, MR/DD Services,					77845
		shall be used as state matching funds to provide vocational					77846
		rehabilitation services to mutually eligible clients between the					77847
		Rehabilitation Services Commission and the Department of Mental					77848

Retardation and Developmental Disabilities. The Rehabilitation
Services Commission shall report to the Department of Mental
Retardation and Developmental Disabilities, as outlined in an
interagency agreement, on the number and status of mutually
eligible clients and the status of the funds and expenditures for
these clients.

VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES 77855

The foregoing appropriation item 415-405, Vocational
Rehabilitation/Job and Family Services, shall be used as state
matching funds to provide vocational rehabilitation services to
mutually eligible clients between the Rehabilitation Services
Commission and the Department of Job and Family Services. The
Rehabilitation Services Commission shall report to the Department
of Job and Family Services, as outlined in an interagency
agreement, on the number and status of mutually eligible clients
and the status of the funds and expenditures for these clients.

ASSISTIVE TECHNOLOGY 77865

The foregoing appropriation item 415-406, Assistive
Technology, shall be provided to Assistive Technology of Ohio and
shall be used only to provide grants under that program. No amount
of the appropriation may be used for administrative costs.

OFFICE FOR PEOPLE WITH BRAIN INJURY 77870

Of the foregoing appropriation item 415-431, Office for
People with Brain Injury, \$50,000 in each fiscal year shall be
used for the state match for a federal grant awarded through the
Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to \$50,000
in fiscal year 2006 and up to \$50,000 in fiscal year 2007 shall be
provided to the Brain Injury Trust Fund. The remaining
appropriation shall be used to plan and coordinate
head-injury-related services provided by state agencies and other
government or private entities, to assess the needs for such

services, and to set priorities in this area.	77880
SERVICES FOR THE DEAF	77881
The foregoing appropriation item 415-508, Services for the Deaf, shall be used to supplement Social Security reimbursement funds used to provide grants to community centers for the deaf.	77882 77883 77884
These funds shall not be used in lieu of Social Security reimbursement funds.	77885 77886
SERVICES FOR THE ELDERLY	77887
The foregoing appropriation item 415-509, Services for the Elderly, shall be used as matching funds for vocational rehabilitation services for eligible elderly citizens with a disability.	77888 77889 77890 77891
INDEPENDENT LIVING SERVICES	77892
The foregoing appropriation items 415-520, Independent Living Services, and 415-612, Federal - Independent Living Centers or Services, shall be used to support state independent living centers or independent living services under Title VII of the Independent Living Services and Centers for Independent Living of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 U.S.C. 796d.	77893 77894 77895 77896 77897 77898 77899
PROGRAM MANAGEMENT EXPENSES	77900
The foregoing appropriation item 415-606, Program Management Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.	77901 77902 77903 77904 77905
INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS	77906
The foregoing appropriation item 415-617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs, including, but not	77907 77908 77909

limited to, high tech high schools, training, and brain injury grants. 77910
77911

SOCIAL SECURITY REIMBURSEMENT FUNDS 77912

Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment shall be used in the Social Security Reimbursement Fund (Fund 3L1), as follows: 77913
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(A) Appropriation item 415-601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code; 77918
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(B) Appropriation item 415-605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments; 77921
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(C) Appropriation item 415-607, Social Security Administration Cost, to provide administrative services needed to administer the Social Security reimbursement program; 77925
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77927

(D) Appropriation item 415-608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item also includes funds to assist the Personal Care Assistance, Community Centers for the Deaf, and Independent Living Programs to pay their share of indirect costs as mandated by federal OMB Circular A-87. 77928
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(E) Appropriation item 415-610, Social Security Vocational Rehabilitation, to provide vocational rehabilitation services to older blind individuals with severe disabilities to enable them to achieve a noncompetitive employment goal. 77936
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PILOT PROGRAM FOR VOCATIONAL REHABILITATION				77940	
During fiscal years 2006 and 2007, the Rehabilitation				77941	
Services Commission may conduct a pilot program to provide				77942	
vocational rehabilitation and related services to entities,				77943	
employers, or individuals that are not eligible for state- or				77944	
federally-supported services through the commission. The				77945	
commission shall propose fees to be collected from the entities,				77946	
employers, or individuals served by the pilot program to support				77947	
the costs for vocational rehabilitation and related services				77948	
provided under the pilot program. Fee revenues collected under the				77949	
program shall be credited to Fund 468 (Third Party Funding).				77950	
During implementation of the pilot program, the Rehabilitation				77951	
Services Commission shall investigate and determine the				77952	
possibility of utilizing this source of revenue to match federal				77953	
funds. The Rehabilitation Services Commission shall evaluate the				77954	
progress of the pilot program and issue a report of its findings				77955	
to the Governor not later than December 15, 2007. The report shall				77956	
include a recommendation to either continue or discontinue the				77957	
pilot program in the next biennium.				77958	
Section 209.75. RCB RESPIRATORY CARE BOARD				77959	
General Services Fund Group				77960	
4K9 872-609 Operating Expenses	\$	441,987	\$	0	77961
TOTAL GSF General Services					77962
Fund Group	\$	441,987	\$	0	77963
TOTAL ALL BUDGET FUND GROUPS	\$	441,987	\$	0	77964
Section 209.78. REVENUE DISTRIBUTION FUNDS				77966	
Volunteer Firefighters' Dependents Fund				77967	
085 800-900 Volunteer	\$	280,000	\$	280,000	77968
Firefighters'					
Dependents Fund					

TOTAL 085 Volunteer Firefighters'				77969
Dependents Fund	\$	280,000	\$ 280,000	77970
Agency Fund Group				77971
062 110-900 Resort Area Excise Tax	\$	1,000,000	\$ 1,075,000	77972
063 110-900 Permissive Tax	\$	1,627,628,631	\$ 1,706,969,960	77973
Distribution				
067 110-900 School District Income	\$	185,000,000	\$ 195,000,000	77974
Tax				
4P8 001-698 Cash Management	\$	2,500,000	\$ 3,000,000	77975
Improvement Fund				
608 001-699 Investment Earnings	\$	85,000,000	\$ 85,000,000	77976
TOTAL AGY Agency Fund Group	\$	1,901,128,631	\$ 1,991,044,960	77977
Holding Account Redistribution				77978
R45 110-617 International Fuel Tax	\$	6,292,029	\$ 0	77979
Distribution				
TOTAL 090 Holding Account	\$	6,292,029	\$ 0	77980
Redistribution Fund				
Revenue Distribution Fund Group				77981
049 038-900 Indigent Drivers	\$	1,865,000	\$ 1,865,000	77982
Alcohol Treatment				
050 762-900 International	\$	55,000,000	\$ 55,000,000	77983
Registration Plan				
Distribution				
051 762-901 Auto Registration	\$	475,000,000	\$ 475,000,000	77984
Distribution				
054 110-900 Local Government	\$	90,000,000	\$ 90,000,000	77985
Property Tax				
Replacement - Utility				
060 110-900 Gasoline Excise Tax	\$	325,000,000	\$ 349,000,000	77986
Fund				
064 110-900 Local Government	\$	83,754,100	\$ 77,384,100	77987
Revenue Assistance				
065 110-900 Library/Local	\$	439,372,980	\$ 430,584,650	77988

	Government Support				
	Fund				
066	800-900 Undivided Liquor	\$	13,500,000	\$	13,500,000 77989
	Permits				
068	110-900 State and Local	\$	231,076,000	\$	235,542,000 77990
	Government Highway				
	Distribution				
069	110-900 Local Government Fund	\$	598,454,000	\$	560,455,299 77991
081	110-900 Local Government	\$	20,490,000	\$	154,290,000 77992
	Property Tax				
	Replacement-Business				
082	110-900 Horse Racing Tax	\$	130,000	\$	130,000 77993
083	700-900 Ohio Fairs Fund	\$	2,450,000	\$	2,450,000 77994
088	110-900 Local Government	\$	\$5,000,000	\$	0 77995
	Services Collaboration				
089	100-900 Small Township and	\$	3,500,000	\$	6,500,000 77996
	Village Relief				
	TOTAL RDF Revenue Distribution				77997
	Fund Group	\$	2,344,592,080	\$	2,451,701,049 77998
	TOTAL ALL BUDGET FUND GROUPS	\$	4,252,292,740	\$	4,443,026,009 77999
	ADDITIONAL APPROPRIATIONS				78000
	Appropriation items in this section shall be used for the				78001
	purpose of administering and distributing the designated revenue				78002
	distribution funds according to the Revised Code. If it is				78003
	determined that additional appropriations are necessary for this				78004
	purpose, such amounts are appropriated.				78005
	Section 209.78.03. GENERAL REVENUE FUND TRANSFERS TO LOCAL				78006
	GOVERNMENT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 081)				78007
	Notwithstanding any provision of law to the contrary, the Director				78008
	of Budget and Management shall transfer \$4,290,000 in fiscal year				78009
	2006 and \$30,090,000 in fiscal year 2007 from the General Revenue				78010

Fund to appropriation item 110-900, Local Government Property Tax 78011
Replacement - Business (Fund 081) in the Revenue Distribution 78012
Fund. The funds shall be used to reimburse local taxing units 78013
under section 5751.22 of the Revised Code. 78014

Section 209.78.06. LOCAL GOVERNMENT SERVICES COLLABORATION 78015
GRANT PROGRAM 78016

(A) The Director of Development shall administer a Local 78017
Government Services Collaboration Grant Program. The Director may 78018
adopt rules under section 111.15 of the Revised Code and do all 78019
things necessary for that purpose. 78020

(B) There is hereby created in the State Treasury the Local 78021
Government Services Collaboration Grant Fund (Fund 088). The fund 78022
shall consist of all cash deposited to it pursuant to Section 78023
557.12 of this act. The fund shall be used by the Director of 78024
Development in administering the Local Government Services 78025
Collaboration Grant Program. 78026

(C) The foregoing appropriation item 110-900, Local 78027
Government Services Collaboration, shall be used by the Director 78028
of Development to administer the Local Government Services 78029
Collaboration Grant Program. Moneys shall be used to provide 78030
grants to counties, municipal corporations, townships, and 78031
fire/ambulance districts that are interested in combining the 78032
provision of local government services with those of other 78033
counties, municipal corporations, townships, or fire/ambulance 78034
districts. Individual grant awards shall be used solely for the 78035
cost of conducting a feasibility study that addresses whether, and 78036
in what manner, counties, municipal corporations, townships, and 78037
fire/ambulance districts may combine their respective provisions 78038
of local government services. 78039

Individual grants shall be available on a competitive basis 78040

to a county, municipal corporation, township, or fire/ambulance 78041
district that proposes to combine its provision of local 78042
government services with those of at least two other counties, 78043
municipal corporations, townships, or fire/ambulance districts, or 78044
with any combination of at least two other counties, municipal 78045
corporations, townships, or fire/ambulance districts. Grants shall 78046
be awarded according to the following formula: 78047

(1) For a total of, or for any combination of, three 78048
counties, municipal corporations, townships, or fire/ambulance 78049
districts, the grant shall be equal to fifty per cent of the total 78050
cost of the feasibility study; 78051

(2) For a total of, or for any combination of, four counties, 78052
municipal corporations, townships, or fire/ambulance districts, 78053
the grant shall be equal to sixty per cent of the total cost of 78054
the feasibility study; 78055

(3) For a total of, or for any combination of, five counties, 78056
municipal corporations, townships, or fire/ambulance districts, 78057
the grant shall be equal to seventy per cent of the total cost of 78058
the feasibility study; 78059

(4) For a total of, or for any combination of six counties, 78060
municipal corporations, townships, or fire/ambulance districts, 78061
the grant shall be equal to eighty per cent of the total cost of 78062
the feasibility study; 78063

(5) For a total of, or for any combination of, seven 78064
counties, municipal corporations, townships, or fire/ambulance 78065
districts, the grant shall be equal to ninety per cent of the 78066
total cost of the feasibility study; 78067

(6) For a total of, or for any combination of, eight or more 78068
counties, municipal corporations, townships, or fire/ambulance 78069
districts, the grant shall be equal to the total cost of the 78070
feasibility study. 78071

(D) Of the foregoing appropriation 110-900, Local Government Services Collaboration, not more than \$100,000 over the biennium may be used by the Department of Development for operating expenditures in administering the Local Government Services Collaboration Grant Program.

(E) Applicants for funding under the Local Government Services Collaboration Grant Program are encouraged to utilize the services of state-funded colleges and universities to conduct the feasibility studies referenced under this section.

(F) As used in this section, "local government services" means services typically provided by a county, municipal corporation, township, or fire/ambulance district for the health, safety, and well-being of community residents and includes, but is not limited to, police and fire protection, 9-1-1 emergency service, trash collection, snow removal, road repair, and the provision of public utilities such as water and sewer services.

(G) On or before June 30, 2006, the unencumbered balance of the foregoing appropriation item 110-900, Local Government Services Collaboration, for fiscal year 2006 is hereby appropriated for the same purpose for fiscal year 2007.

Section 209.78.09. SMALL TOWNSHIP AND VILLAGE RELIEF FUND

(A) The Small Township and Village Relief Fund (Fund 089) is hereby created in the state treasury.

(B)(1) Notwithstanding any other provision of law to the contrary, on July 1, 2005, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to \$3,500,000 from the General Revenue Fund to the Small Township and Village Relief Fund.

(2) Notwithstanding any other provision of law to the contrary, on July 1, 2006, or as soon as possible thereafter, the

Director of Budget and Management shall transfer up to \$6,500,000 78102
 from the General Revenue Fund to the Small Township and Village 78103
 Relief Fund. 78104

(C) The Small Township and Village Relief Fund shall be used 78105
 to aid eligible small townships and villages in providing 78106
 essential services to residents. The Tax Commissioner shall adopt 78107
 rules and determine the distribution method of the Small Township 78108
 And Village Relief Fund (Fund 089). The tax commissioner shall 78109
 take into account when determining the method of distributing 78110
 funds to eligible townships and villages the following factors: 78111

(1) Townships with a population under 20,000 individuals 78112
 under the most recent estimated federal census figures. 78113

(2) Townships with average or median property values must be 78114
 less than the state average or median property tax values. 78115

(3) Villages with a population under 5,000 individuals under 78116
 the most recent estimated federal census figures. 78117

Section 209.81. SAN BOARD OF SANITARIAN REGISTRATION 78118

General Services Fund Group				78119
4K9 893-609 Operating Expenses	\$	134,279	\$ 0	78120
TOTAL GSF General Services				78121
Fund Group	\$	134,279	\$ 0	78122
TOTAL ALL BUDGET FUND GROUPS	\$	134,279	\$ 0	78123

Section 209.84. OSB OHIO STATE SCHOOL FOR THE BLIND 78125

General Revenue Fund				78126
GRF 226-100 Personal Services	\$	6,469,841	\$ 6,594,261	78127
GRF 226-200 Maintenance	\$	704,162	\$ 704,162	78128
GRF 226-300 Equipment	\$	113,289	\$ 113,289	78129
TOTAL GRF General Revenue Fund	\$	7,287,292	\$ 7,411,712	78130
General Services Fund Group				78131

4H8 226-602 Education Reform	\$	21,620	\$	21,620	78132
Grants					
TOTAL GSF General Services					78133
Fund Group	\$	21,620	\$	21,620	78134
Federal Special Revenue Fund Group					78135
3P5 226-643 Medicaid Professional	\$	180,000	\$	210,000	78136
Services Reimbursement					
310 226-626 Coordinating Unit	\$	1,639,000	\$	1,639,000	78137
TOTAL FED Federal Special					78138
Revenue Fund Group	\$	1,819,000	\$	1,849,000	78139
State Special Revenue Fund Group					78140
4M5 226-601 Student Activity and	\$	217,397	\$	217,397	78141
Work Study					
TOTAL SSR State Special Revenue					78142
Fund Group	\$	217,397	\$	217,397	78143
TOTAL ALL BUDGET FUND GROUPS	\$	9,345,309	\$	9,499,729	78144
Section 209.87. OSD OHIO STATE SCHOOL FOR THE DEAF					78146
General Revenue Fund					78147
GRF 221-100 Personal Services	\$	8,401,704	\$	8,401,704	78148
GRF 221-200 Maintenance	\$	1,032,751	\$	1,032,751	78149
GRF 221-300 Equipment	\$	222,500	\$	222,500	78150
TOTAL GRF General Revenue Fund	\$	9,656,955	\$	9,656,955	78151
General Services Fund Group					78152
4M1 221-602 Education Reform	\$	27,575	\$	27,575	78153
Grants					
TOTAL GSF General Services					78154
Fund Group	\$	27,575	\$	27,575	78155
Federal Special Revenue Fund Group					78156
3AD 221-604 VREAL Ohio	\$	1,000,000	\$	1,000,000	78157
3R0 221-684 Medicaid Professional	\$	35,000	\$	35,000	78158

	Services Reimbursement				78159	
3Y1	221-686	Early Childhood Grant	\$	250,000	\$ 250,000	78160
311	221-625	Coordinating Unit	\$	1,062,426	\$ 1,062,426	78161
	TOTAL FED	Federal Special				78162
	Revenue Fund Group		\$	2,347,426	\$ 2,347,426	78163
	State Special Revenue Fund Group					78164
4M0	221-601	Educational Program	\$	32,688	\$ 32,688	78165
		Expenses				78166
5H6	221-609	Even Start Fees &	\$	59,800	\$ 59,800	78167
		Gifts				
	TOTAL SSR	State Special Revenue				78168
	Fund Group		\$	92,488	\$ 92,488	78169
	TOTAL ALL BUDGET FUND GROUPS		\$	12,124,444	\$ 12,124,444	78170
	EQUIPMENT					78171
	Of the foregoing appropriation item 221-300, Equipment, up to					78172
	\$15,000 in fiscal year 2006 may be used by the Ohio School for the					78173
	Deaf to purchase software for the documentation and tracking of					78174
	students for increased accountability and data analysis for					78175
	quality instruction.					78176
	Section 209.90. SFC SCHOOL FACILITIES COMMISSION					78177
	General Revenue Fund					78178
GRF	230-428	Lease Rental Payments	\$	31,691,700	\$ 31,603,200	78179
GRF	230-908	Common Schools General	\$	188,724,700	\$ 224,911,500	78180
		Obligation Debt				
		Service				
	TOTAL GRF	General Revenue Fund	\$	220,416,400	\$ 256,514,700	78181
	State Special Revenue Fund Group					78182
5E3	230-644	Operating Expenses	\$	7,319,617	\$ 7,691,485	78183
	TOTAL SSR	State Special Revenue				78184
	Fund Group		\$	7,319,617	\$ 7,691,485	78185

Lottery Profits Education Fund Group				78186
020 230-620 Career-Tech School	\$	2,000,000	\$ 2,000,000	78187
Building Assistance				
TOTAL LPE Lottery Profits				78188
Education Fund Group	\$	2,000,000	\$ 2,000,000	78189
TOTAL ALL BUDGET FUND GROUPS	\$	229,736,017	\$ 266,206,185	78190

Section 209.90.03. LEASE RENTAL PAYMENTS 78192

The foregoing appropriation item 230-428, Lease Rental 78193
 Payments, shall be used to meet all payments at the times they are 78194
 required to be made during the period from July 1, 2005, to June 78195
 30, 2007, by the School Facilities Commission under leases and 78196
 agreements made under section 3318.26 of the Revised Code, but 78197
 limited to the aggregate amount of \$63,294,900. Nothing in this 78198
 act shall be deemed to contravene the obligation of the state to 78199
 pay, without necessity for further appropriation, from the sources 78200
 pledged thereto, the bond service charges on obligations issued 78201
 under Chapter 3318. of the Revised Code. 78202

COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE 78203

The foregoing appropriation item 230-908, Common Schools 78204
 General Obligation Debt Service, shall be used to pay all debt 78205
 service and related financing costs at the times they are required 78206
 to be made under sections 151.01 and 151.03 of the Revised Code 78207
 during the period from July 1, 2005, to June 30, 2007. The Office 78208
 of the Sinking Fund or the Director of Budget and Management shall 78209
 effectuate the required payments by an intrastate transfer 78210
 voucher. 78211

OPERATING EXPENSES 78212

The foregoing appropriation item 230-644, Operating Expenses, 78213
 shall be used by the Ohio School Facilities Commission to carry 78214
 out its responsibilities under this section and Chapter 3318. of 78215

the Revised Code. 78216

In both fiscal years 2006 and 2007, the Executive Director of 78217
the Ohio School Facilities Commission shall certify on a quarterly 78218
basis to the Director of Budget and Management the amount of cash 78219
from interest earnings to be transferred from the School Building 78220
Assistance Fund (Fund 032), the Public School Building Fund (Fund 78221
021), and the Educational Facilities Trust Fund (Fund N87) to the 78222
Ohio School Facilities Commission Fund (Fund 5E3). The amount 78223
transferred may not exceed investment earnings credited to the 78224
School Building Assistance Fund (Fund 032), less any amount 78225
required to be paid for federal arbitrage rebate purposes. 78226

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION 78227

At the request of the Executive Director of the Ohio School 78228
Facilities Commission, the Director of Budget and Management may 78229
cancel encumbrances for school district projects from a previous 78230
biennium if the district has not raised its local share of project 78231
costs within one year of receiving Controlling Board approval 78232
under section 3318.05 of the Revised Code. The Executive Director 78233
of the Ohio School Facilities Commission shall certify the amounts 78234
of the canceled encumbrances to the Director of Budget and 78235
Management on a quarterly basis. The amounts of the canceled 78236
encumbrances are hereby appropriated. 78237

Section 209.90.06. EXTREME ENVIRONMENTAL CONTAMINATION OF 78238
SCHOOL FACILITIES 78239

Notwithstanding any other provision of law to the contrary, 78240
the School Facilities Commission may provide assistance under the 78241
Exceptional Needs School Facilities Program established in section 78242
3318.37 of the Revised Code to any school district, and not 78243
exclusively to a school district in the lowest fifty per cent of 78244
adjusted valuation per pupil on the current ranking of school 78245

districts established under section 3317.02 of the Revised Code, 78246
for the purpose of the relocation or replacement of school 78247
facilities required as a result of extreme environmental 78248
contamination. 78249

The School Facilities Commission shall contract with an 78250
independent environmental consultant to conduct a study and to 78251
report to the commission as to the seriousness of the 78252
environmental contamination, whether the contamination violates 78253
applicable state and federal standards, and whether the facilities 78254
are no longer suitable for use as school facilities. The 78255
commission then shall make a determination regarding funding for 78256
the relocation or replacement of the school facilities. If the 78257
federal government or other public or private entity provides 78258
funds for restitution of costs incurred by the state or school 78259
district in the relocation or replacement of the school 78260
facilities, the school district shall use such funds in excess of 78261
the school district's share to refund the state for the state's 78262
contribution to the environmental contamination portion of the 78263
project. The school district may apply an amount of such 78264
restitution funds up to an amount equal to the school district's 78265
portion of the project, as defined by the commission, toward 78266
paying its portion of that project to reduce the amount of bonds 78267
the school district otherwise must issue to receive state 78268
assistance under sections 3318.01 to 3318.20 of the Revised Code. 78269

Section 209.90.09. CANTON CITY SCHOOL DISTRICT PROJECT 78270

(A) The Ohio School Facilities Commission may commit up to 78271
thirty-five million dollars to the Canton City School District for 78272
construction of a facility described in this section, in lieu of a 78273
high school that would otherwise be authorized under Chapter 3318. 78274
of the Revised Code. The Commission shall not commit funds under 78275
this section unless all of the following conditions are met: 78276

(1) The District has entered into a cooperative agreement with a state-assisted technical college.	78277 78278
(2) The District has received an irrevocable commitment of additional funding from nonpublic sources.	78279 78280
(3) The facility is intended to serve both secondary and postsecondary instructional purposes.	78281 78282
(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:	78283 78284 78285 78286 78287 78288 78289 78290
(1) The Commission shall not have any oversight responsibilities over the construction of the facility.	78291 78292
(2) The facility need not comply with the specifications for plans and materials for high schools adopted by the Commission.	78293 78294
(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.	78295 78296 78297
(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section.	78298 78299 78300
All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section.	78301 78302 78303
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	78304 78305 78306

Code. All additional state funds committed to the Canton City 78307
School District for classroom facilities assistance shall be 78308
subject to all provisions of Chapter 3318. of the Revised Code. 78309

Section 209.93. SOS SECRETARY OF STATE 78310

General Revenue Fund 78311

GRF 050-321 Operating Expenses \$ 2,585,000 \$ 2,585,000 78312

GRF 050-403 Election Statistics \$ 103,936 \$ 103,936 78313

GRF 050-407 Pollworkers Training \$ 277,977 \$ 277,977 78314

GRF 050-409 Litigation \$ 4,652 \$ 4,652 78315

Expenditures

TOTAL GRF General Revenue Fund \$ 2,971,585 \$ 2,971,585 78316

General Services Fund Group 78317

4S8 050-610 Board of Voting \$ 7,200 \$ 7,200 78318

Machine Examiners

412 050-609 Notary Commission \$ 685,250 \$ 685,249 78319

413 050-601 Information Systems \$ 169,955 \$ 169,955 78320

414 050-602 Citizen Education Fund \$ 75,700 \$ 55,712 78321

TOTAL General Services Fund Group \$ 938,105 \$ 918,116 78322

Federal Special Revenue Fund Group 78323

3AS 050-616 2005 HAVA Voting \$ 37,436,203 \$ 0 78324

Machines

3X4 050-612 Ohio Center/Law \$ 41,000 \$ 41,000 78325

Related Educational
Grant

TOTAL FED Federal Special Revenue 78326

Fund Group \$ 37,477,203 \$ 41,000 78327

State Special Revenue Fund Group 78328

5N9 050-607 Technology \$ 129,565 \$ 129,565 78329

Improvements

599 050-603 Business Services \$ 13,741,745 \$ 13,761,734 78330

Operating Expenses			
TOTAL SSR State Special Revenue			78331
Fund Group	\$ 13,871,310	\$ 13,891,299	78332
Holding Account Redistribution Fund Group			78333
R01 050-605 Uniform Commercial	\$ 65,000	\$ 65,000	78334
Code Refunds			
R02 050-606 Corporate/Business	\$ 100,000	\$ 100,000	78335
Filing Refunds			
TOTAL 090 Holding Account			78336
Redistribution Fund Group	\$ 165,000	\$ 165,000	78337
TOTAL ALL BUDGET FUND GROUPS	\$ 55,423,203	\$ 17,987,000	78338
BOARD OF VOTING MACHINE EXAMINERS			78339
The foregoing appropriation item 050-610, Board of Voting			78340
Machine Examiners, shall be used to pay for the services and			78341
expenses of the members of the Board of Voting Machine Examiners,			78342
and for other expenses that are authorized to be paid from the			78343
Board of Voting Machine Examiners Fund, which is created in			78344
section 3506.05 of the Revised Code. Moneys not used shall be			78345
returned to the person or entity submitting the equipment for			78346
examination. If it is determined that additional appropriations			78347
are necessary, such amounts are appropriated.			78348
HOLDING ACCOUNT REDISTRIBUTION GROUP			78349
The foregoing appropriation items 050-605 and 050-606,			78350
Holding Account Redistribution Fund Group, shall be used to hold			78351
revenues until they are directed to the appropriate accounts or			78352
until they are refunded. If it is determined that additional			78353
appropriations are necessary, such amounts are appropriated.			78354
Section 209.96. SEN THE OHIO SENATE			78355
General Revenue Fund			78356
GRF 020-321 Operating Expenses	\$ 11,546,357	\$ 11,661,821	78357

TOTAL GRF General Revenue Fund	\$	11,546,357	\$	11,661,821	78358
General Services Fund Group					78359
102 020-602 Senate Reimbursement	\$	444,025	\$	444,025	78360
409 020-601 Miscellaneous Sales	\$	34,155	\$	34,155	78361
TOTAL GSF General Services					78362
Fund Group	\$	478,180	\$	478,180	78363
TOTAL ALL BUDGET FUND GROUPS	\$	12,024,537	\$	12,140,001	78364

OPERATING EXPENSES 78365

On July 1, 2005, or as soon as possible thereafter, the Clerk 78366
of the Senate shall certify to the Director of Budget and 78367
Management the total fiscal year 2005 unencumbered appropriations 78368
in appropriation item 020-321, Operating Expenses. The Clerk may 78369
direct the Director of Budget and Management to transfer an amount 78370
not to exceed the total fiscal year 2005 unencumbered 78371
appropriations to fiscal year 2006 for use within appropriation 78372
item 020-321, Operating Expenses. Additional appropriation 78373
authority equal to the amount certified by the Clerk is hereby 78374
appropriated to appropriation item 020-321, Operating Expenses, in 78375
fiscal year 2006. 78376

On July 1, 2006, or as soon as possible thereafter, the Clerk 78377
of the Senate shall certify to the Director of Budget and 78378
Management the total fiscal year 2006 unencumbered appropriations 78379
in appropriation item 020-321, Operating Expenses. The Clerk may 78380
direct the Director of Budget and Management to transfer an amount 78381
not to exceed the total fiscal year 2006 unencumbered 78382
appropriations to fiscal year 2007 for use within appropriation 78383
item 020-321, Operating Expenses. Additional appropriation 78384
authority equal to the amount certified by the Clerk is hereby 78385
appropriated to appropriation item 020-321, Operating Expenses, in 78386
fiscal year 2007. 78387

Section 209.99. CSF COMMISSIONERS OF THE SINKING FUND 78388

Debt Service Fund Group				78389	
072 155-902 Highway Capital	\$	180,620,600	\$	196,464,900	78390
Improvements Bond					
Retirement Fund					
073 155-903 Natural Resources Bond	\$	26,166,000	\$	24,659,100	78391
Retirement Fund					
074 155-904 Conservation Projects	\$	14,687,300	\$	17,668,800	78392
Bond Service Fund					
076 155-906 Coal Research and	\$	7,071,100	\$	8,980,800	78393
Development Bond					
Retirement Fund					
077 155-907 State Capital	\$	163,131,400	\$	174,545,100	78394
Improvements Bond					
Retirement Fund					
078 155-908 Common Schools Bond	\$	200,724,700	\$	236,911,500	78395
Retirement Fund					
079 155-909 Higher Education Bond	\$	140,600,300	\$	158,114,100	78396
Retirement Fund					
TOTAL DSF Debt Service Fund Group	\$	733,001,400	\$	817,344,300	78397
TOTAL ALL BUDGET FUND GROUPS	\$	733,001,400	\$	817,344,300	78398

ADDITIONAL APPROPRIATIONS

Appropriation items in this section are for the purpose of 78400
paying debt service and financing costs on bonds or notes of the 78401
state issued under the Ohio Constitution and acts of the General 78402
Assembly. If it is determined that additional appropriations are 78403
necessary for this purpose, such amounts are appropriated. 78404

COMMISSIONER OF THE SINKING FUND HIGHWAY BOND TRANSFER 78405
AUTHORIZATION 78406

Notwithstanding any other provision of law to the contrary, 78407
the Commissioners of the Sinking Fund shall certify to the 78408
Director of Budget and Management, and the director shall then 78409

transfer, the cash balance remaining after provision for the 78410
 payment of all outstanding bonds, notes, coupons, and charges from 78411
 the Highway Obligation Bond Retirement Fund (Fund 071) to the 78412
 Highway Capital Improvements Bond Service Fund (Fund 072), created 78413
 by section 151.06 of the Revised Code, as expeditiously as 78414
 possible after the effective date of this section. 78415

Section 212.03. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & 78416
 AUDIOLOGY 78417

General Services Fund Group 78418
 4K9 886-609 Operating Expenses \$ 408,864 \$ 0 78419
 TOTAL GSF General Services 78420
 Fund Group \$ 408,864 \$ 0 78421
 TOTAL ALL BUDGET FUND GROUPS \$ 408,864 \$ 0 78422

Section 212.06. BTA BOARD OF TAX APPEALS 78424

General Revenue Fund 78425
 GRF 116-321 Operating Expenses \$ 2,155,055 \$ 2,211,035 78426
 TOTAL GRF General Revenue Fund \$ 2,155,055 \$ 2,211,035 78427
 TOTAL ALL BUDGET FUND GROUPS \$ 2,155,055 \$ 2,211,035 78428

Section 212.09. TAX DEPARTMENT OF TAXATION 78430

General Revenue Fund 78431
 GRF 110-321 Operating Expenses \$ 91,439,754 \$ 91,439,754 78432
 GRF 110-412 Child Support \$ 71,988 \$ 71,988 78433
 Administration
 GRF 110-901 Property Tax \$ 430,102,680 \$ 409,946,241 78434
 Allocation - Taxation
 GRF 110-906 Tangible Tax Exemption \$ 18,355,923 \$ 13,766,942 78435
 - Taxation
 TOTAL GRF General Revenue Fund \$ 539,970,345 \$ 515,224,925 78436
 Agency Fund Group 78437

095	110-901	Municipal Income Tax	\$	21,000,000	\$	21,000,000	78438
425	110-635	Tax Refunds	\$	1,483,900,000	\$	1,582,700,000	78439
TOTAL AGY		Agency Fund Group	\$	1,504,900,000	\$	1,603,700,000	78440
General Services		Fund Group					78441
228	110-628	Tax Reform System Implementation	\$	7,000,000	\$	7,000,000	78442
433	110-602	Tape File Account	\$	96,165	\$	96,165	78443
5BW	110-630	Tax Amnesty Promotion and Administration	\$	2,000,000	\$	0	78444
5W4	110-625	Centralized Tax Filing and Payment	\$	2,500,000	\$	2,000,000	78445
5W7	110-627	Exempt Facility Administration	\$	36,000	\$	36,000	78446
TOTAL GSF		General Services Fund Group	\$	11,632,165	\$	9,132,165	78447 78448
Federal Special Revenue		Fund Group					78449
3J6	110-601	Motor Fuel Compliance	\$	25,000	\$	25,000	78450
TOTAL FED		Federal Special Revenue Fund Group	\$	25,000	\$	25,000	78451 78452
State Special Revenue		Fund Group					78453
4C6	110-616	International Registration Plan	\$	706,855	\$	706,855	78454
4R6	110-610	Tire Tax Administration	\$	65,000	\$	65,000	78455
435	110-607	Local Tax Administration	\$	15,880,987	\$	16,394,879	78456
436	110-608	Motor Vehicle Audit	\$	1,350,000	\$	1,350,000	78457
437	110-606	Litter Tax and Natural Resource Tax Administration	\$	625,232	\$	625,232	78458
438	110-609	School District Income Tax	\$	2,599,999	\$	2,599,999	78459

5BQ	110-629	Commercial Activity	\$	6,000,000	\$	500,000	78460
		Tax Administration					
5N5	110-605	Municipal Income Tax	\$	265,000	\$	265,000	78461
		Administration					
5N6	110-618	Kilowatt Hour Tax	\$	85,000	\$	85,000	78462
		Administration					
5V7	110-622	Motor Fuel Tax	\$	4,268,345	\$	4,397,263	78463
		Administration					
5V8	110-623	Property Tax	\$	12,758,643	\$	12,967,102	78464
		Administration					
639	110-614	Cigarette Tax	\$	168,925	\$	168,925	78465
		Enforcement					
642	110-613	Ohio Political Party	\$	600,000	\$	600,000	78466
		Distributions					
688	110-615	Local Excise Tax	\$	300,000	\$	300,000	78467
		Administration					
TOTAL SSR State Special Revenue							78468
Fund Group			\$	45,673,986	\$	41,025,255	78469
Holding Account Redistribution Fund Group							78470
R10	110-611	Tax Distributions	\$	50,000	\$	50,000	78471
R11	110-612	Miscellaneous Income	\$	50,000	\$	50,000	78472
		Tax Receipts					
TOTAL 090 Holding Account							78473
Redistribution Fund Group			\$	100,000	\$	100,000	78474
TOTAL ALL BUDGET FUND GROUPS							78475
HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX							78476
EXEMPTION							78477
The foregoing appropriation item 110-901, Property Tax							78478
Allocation - Taxation, is hereby appropriated to pay for the							78479
state's costs incurred because of the Homestead Exemption, the							78480
Manufactured Home Property Tax Rollback, and the Property Tax							78481
Rollback. The Tax Commissioner shall distribute these funds							78482

directly to the appropriate local taxing districts, except for 78483
school districts, notwithstanding the provisions in sections 78484
321.24 and 323.156 of the Revised Code, which provide for payment 78485
of the Homestead Exemption, the Manufactured Home Property Tax 78486
Rollback, and Property Tax Rollback by the Tax Commissioner to the 78487
appropriate county treasurer and the subsequent redistribution of 78488
these funds to the appropriate local taxing districts by the 78489
county auditor. 78490

The foregoing appropriation item 110-906, Tangible Tax 78491
Exemption - Taxation, is hereby appropriated to pay for the 78492
state's costs incurred because of the tangible personal property 78493
tax exemption required by division (C)(3) of section 5709.01 of 78494
the Revised Code. The Tax Commissioner shall distribute to each 78495
county treasurer the total amount appearing in the notification 78496
from the county treasurer under division (G) of section 321.24 of 78497
the Revised Code for all local taxing districts located in the 78498
county except for school districts, notwithstanding the provision 78499
in section 321.24 of the Revised Code which provides for payment 78500
of the \$10,000 tangible personal property tax exemption by the Tax 78501
Commissioner to the appropriate county treasurer for all local 78502
taxing districts located in the county including school districts. 78503
The county auditor shall distribute the amount paid by the Tax 78504
Commissioner among the appropriate local taxing districts except 78505
for school districts under division (G) of section 321.24 of the 78506
Revised Code. 78507

Upon receipt of these amounts, each local taxing district 78508
shall distribute the amount among the proper funds as if it had 78509
been paid as real or tangible personal property taxes. Payments 78510
for the costs of administration shall continue to be paid to the 78511
county treasurer and county auditor as provided for in sections 78512
319.54, 321.26, and 323.156 of the Revised Code. 78513

Any sums, in addition to the amounts specifically 78514

appropriated in appropriation items 110-901, Property Tax 78515
Allocation - Taxation, for the Homestead Exemption, the 78516
Manufactured Home Property Tax Rollback, and the Property Tax 78517
Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, 78518
for the \$10,000 tangible personal property tax exemption payments, 78519
which are determined to be necessary for these purposes, are 78520
hereby appropriated. 78521

MUNICIPAL INCOME TAX 78522

The foregoing appropriation item 110-901, Municipal Income 78523
Tax, shall be used to make payments to municipal corporations 78524
under section 5745.05 of the Revised Code. If it is determined 78525
that additional appropriations are necessary to make these 78526
payments, such amounts are hereby appropriated. 78527

TAX REFUNDS 78528

The foregoing appropriation item 110-635, Tax Refunds, shall 78529
be used to pay refunds under section 5703.052 of the Revised Code. 78530
If it is determined that additional appropriations are necessary 78531
for this purpose, such amounts are hereby appropriated. 78532

TAX REFORM SYSTEM IMPLEMENTATION FUND 78533

Notwithstanding section 3734.9010, division (B)(2)(c) of 78534
section 4505.09, division (B) of section 5703.12, section 5703.80, 78535
division (C)(6) of section 5727.81, sections 5733.122 and 78536
5735.053, division (C) of section 5739.21, section 5745.03, 78537
division (C) of section 5747.03, and section 5747.113 of the 78538
Revised Code and any other statutory provision to the contrary, 78539
any residual cash balances determined and certified by the Tax 78540
Commissioner to the Director of Budget and Management shall be 78541
transferred on July 1, 2005, or as soon as possible thereafter, to 78542
the Tax Reform System Implementation Fund (Fund 228), which is 78543
hereby created in the State Treasury. The fund shall be used to 78544
pay expenses incurred by the Department of Taxation in providing 78545

an integrated tax system that will accommodate the needs of tax reform and allow for improved customer service, processing efficiency, compliance enforcement, and reporting.

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INTERNATIONAL REGISTRATION PLAN AUDIT

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The foregoing appropriation item 110-616, International Registration Plan, shall be used under section 5703.12 of the Revised Code for audits of persons with vehicles registered under the International Registration Plan.

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TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT

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Of the foregoing appropriation item 110-607, Local Tax Administration, the Tax Commissioner may disburse funds, if available, for the purposes of paying travel expenses incurred by members of Ohio's delegation to the Streamlined Sales Tax Project, as appointed under section 5740.02 of the Revised Code. Any travel expense reimbursement paid for by the Department of Taxation shall be done in accordance with applicable state laws and guidelines.

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LITTER CONTROL TAX ADMINISTRATION FUND

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Notwithstanding section 5733.12 of the Revised Code, during the period from July 1, 2005, to June 30, 2006, the amount of \$625,232, and during the period from July 1, 2006, to June 30, 2007, the amount of \$625,232, received by the Tax Commissioner under Chapter 5733. of the Revised Code, shall be credited to the Litter Control Tax Administration Fund (Fund 437).

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TAX AMNESTY PROMOTION AND ADMINISTRATION

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The foregoing appropriation item 110-630, Tax Amnesty Promotion and Administration, shall be used to pay expenses incurred to promote and administer the tax amnesty program run from November 1, 2005, through December 15, 2005, by the Department of Taxation. The Department of Taxation and Attorney General's Office shall work in close collaboration on promotion

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activities in relation to the Tax Amnesty Promotion and				78576
Administration program.				78577
CENTRALIZED TAX FILING AND PAYMENT FUND				78578
The Director of Budget and Management, under a plan submitted				78579
by the Tax Commissioner, or as otherwise determined by the				78580
Director of Budget and Management, shall set a schedule to				78581
transfer cash from the General Revenue Fund to the credit of the				78582
Centralized Tax Filing and Payment Fund (Fund 5W4). The transfers				78583
of cash shall not exceed \$4,500,000 in the biennium.				78584
COMMERCIAL ACTIVITY TAX ADMINISTRATION				78585
The foregoing appropriation item 110-629, Commercial Activity				78586
Tax Administration, shall be used to pay expenses incurred by the				78587
Department of Taxation to implement and administer the Commercial				78588
Activity Tax under Chapter 5751. of the Revised Code.				78589
Section 212.12. DOT DEPARTMENT OF TRANSPORTATION				78590
Transportation Modes				78591
General Revenue Fund				78592
GRF 775-451 Public Transportation	\$	16,300,000	\$ 16,300,000	78593
- State				
GRF 776-465 Ohio Rail Development	\$	2,700,000	\$ 2,700,000	78594
Commission				
GRF 776-466 Railroad	\$	789,600	\$ 789,600	78595
Crossing/Grade				
Separation				
GRF 777-471 Airport Improvements -	\$	1,793,985	\$ 1,793,985	78596
State				
GRF 777-473 Rickenbacker Lease	\$	594,500	\$ 320,300	78597
Payments - State				
TOTAL GRF General Revenue Fund	\$	22,178,085	\$ 21,903,885	78598
Federal Special Revenue Fund Group				78599

3B9 776-662 Rail Transportation -	\$	10,000	\$	10,000	78600
Federal					
TOTAL FSR Federal Special Revenue					78601
Fund Group	\$	10,000	\$	10,000	78602
State Special Revenue Fund Group					78603
4N4 776-663 Panhandle Lease	\$	764,400	\$	764,400	78604
Reserve Payments					
4N4 776-664 Rail Transportation -	\$	2,111,500	\$	2,111,500	78605
Other					
5W9 777-615 County Airport	\$	570,000	\$	570,000	78606
Maintenance Assistance					
TOTAL SSR State Special Revenue					78607
Fund Group	\$	3,445,900	\$	3,445,900	78608
TOTAL ALL BUDGET FUND GROUPS	\$	25,633,985	\$	25,359,785	78609
ELDERLY AND DISABLED FARE ASSISTANCE					78610
Of the foregoing appropriation item 775-451, Public					78611
Transportation - State, up to \$6,000,000 in fiscal year 2006 and					78612
\$7,000,000 in fiscal year 2007 may be used to make grants to					78613
county transit boards, regional transit authorities, regional					78614
transit commissions, counties, municipal corporations, and private					78615
nonprofit organizations that operate or will operate public					78616
transportation systems, for the purpose of reducing the transit					78617
fares of elderly or disabled persons. The Director of					78618
Transportation shall establish criteria for the distribution of					78619
these grants under division (B) of section 5501.07 of the Revised					78620
Code.					78621
AVIATION LEASE PAYMENTS					78622
The foregoing appropriation item 777-473, Rickenbacker Lease					78623
Payments - State, shall be used to meet scheduled payments for the					78624
Rickenbacker Port Authority. The Director of Transportation shall					78625
certify to the Director of Budget and Management any					78626

appropriations in appropriation item 777-473, Rickenbacker Lease 78627
 Payments - State, that are not needed to make lease payments for 78628
 the Rickenbacker Port Authority. Notwithstanding section 127.14 of 78629
 the Revised Code, the amount certified may be transferred by the 78630
 Director of Budget and Management to appropriation item 777-471, 78631
 Airport Improvements - State. 78632

Section 212.15. TOS TREASURER OF STATE 78633

General Revenue Fund				78634
GRF 090-321 Operating Expenses	\$	9,041,937	\$ 9,041,937	78635
GRF 090-401 Office of the Sinking Fund	\$	521,576	\$ 521,576	78636
GRF 090-402 Continuing Education	\$	435,770	\$ 435,770	78638
GRF 090-524 Police and Fire Disability Pension Fund	\$	25,000	\$ 20,000	78639
GRF 090-534 Police & Fire Ad Hoc Cost of Living	\$	180,000	\$ 150,000	78641
GRF 090-554 Police and Fire Survivor Benefits	\$	1,100,000	\$ 1,000,000	78643
GRF 090-575 Police and Fire Death Benefits	\$	20,000,000	\$ 20,000,000	78645
TOTAL GRF General Revenue Fund	\$	31,304,283	\$ 31,169,283	78647
Agency Fund Group				78648
425 090-635 Tax Refunds	\$	31,000,000	\$ 31,000,000	78649
TOTAL Agency Fund Group	\$	31,000,000	\$ 31,000,000	78650
General Services Fund Group				78651
4E9 090-603 Securities Lending Income	\$	2,721,800	\$ 2,814,000	78652
577 090-605 Investment Pool	\$	550,000	\$ 550,000	78653

	Reimbursement				78654	
605	090-609	Treasurer of State	\$	700,000	\$ 700,000	78655
		Administrative Fund				78656
		TOTAL GSF General Services				78657
		Fund Group	\$	3,971,800	\$ 4,064,000	78658
		State Special Revenue Fund Group				78659
5C5	090-602	County Treasurer	\$	135,000	\$ 135,000	78660
		Education				
		TOTAL SSR State Special Revenue				78661
		Fund Group	\$	135,000	\$ 135,000	78662
		TOTAL ALL BUDGET FUND GROUPS	\$	66,411,083	\$ 66,368,283	78663

Section 212.15.03. OFFICE OF THE SINKING FUND 78665

The foregoing appropriation item 090-401, Office of the 78666
Sinking Fund, shall be used for financing and other costs incurred 78667
by or on behalf of the Commissioners of the Sinking Fund, the Ohio 78668
Public Facilities Commission or its secretary, or the Treasurer of 78669
State, with respect to State of Ohio general obligation bonds or 78670
notes, including, but not limited to, printing, advertising, 78671
delivery, rating fees and the procurement of ratings, professional 78672
publications, membership in professional organizations, and 78673
services referred to in division (D) of section 151.01 of the 78674
Revised Code. The General Revenue Fund shall be reimbursed for 78675
such costs by intrastate transfer voucher pursuant to a 78676
certification by the Office of the Sinking Fund of the actual 78677
amounts used. The amounts necessary to make such reimbursements 78678
are appropriated from the general obligation bond retirement funds 78679
created by the Constitution and laws to the extent such costs are 78680
incurred. 78681

POLICE AND FIRE DEATH BENEFIT FUND 78682

The foregoing appropriation item 090-575, Police and Fire 78683
Death Benefits, shall be disbursed annually by the Treasurer of 78684

State at the beginning of each fiscal year to the Board of Trustees of the Ohio Police and Fire Pension Fund. By the twentieth day of June of each fiscal year, the Board of Trustees of the Ohio Police and Fire Pension Fund shall certify to the Treasurer of State the amount disbursed in the current fiscal year to make the payments required by section 742.63 of the Revised Code and shall return to the Treasurer of State moneys received from this appropriation item but not disbursed.

TAX REFUNDS

The foregoing appropriation item 090-635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If the Director of Budget and Management determines that additional amounts are necessary for this purpose, such amounts are hereby appropriated.

Section 212.18. UST PETROLEUM UNDERGROUND STORAGE TANK

Agency Fund Group
691 810-632 PUSTRCB Staff \$ 1,075,158 \$ 1,116,658
TOTAL AGY Agency Fund Group \$ 1,075,158 \$ 1,116,658
TOTAL ALL BUDGET FUND GROUPS \$ 1,075,158 \$ 1,116,658

Section 212.21. TTA OHIO TUITION TRUST AUTHORITY

State Special Revenue Fund Group
5AM 095-603 Index Savings Plan \$ 2,866,240 \$ 3,104,865
5P3 095-602 Variable College \$ 2,042,486 \$ 2,118,568
Savings Fund
645 095-601 Operating Expenses \$ 807,260 \$ 891,173
TOTAL SSR State Special Revenue Fund Group \$ 5,715,986 \$ 6,114,606
TOTAL ALL BUDGET FUND GROUPS \$ 5,715,986 \$ 6,114,606

Section 212.24. OVH OHIO VETERANS' HOME

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General Revenue Fund				78715
GRF 430-100 Personal Services	\$	19,685,007	\$ 19,989,167	78716
GRF 430-200 Maintenance	\$	6,396,200	\$ 6,396,200	78717
TOTAL GRF General Revenue Fund	\$	26,081,207	\$ 26,385,367	78718
General Services Fund Group				78719
484 430-603 Rental and Service Revenue	\$	882,737	\$ 882,737	78720
TOTAL GSF General Services Fund Group	\$	882,737	\$ 882,737	78721
Federal Special Revenue Fund Group				78722
3L2 430-601 Federal VA Per Diem Grant	\$	14,990,510	\$ 15,290,320	78723
TOTAL FED Federal Special Revenue Fund Group	\$	14,990,510	\$ 15,290,320	78724
State Special Revenue Fund Group				78726
4E2 430-602 Veterans Home Operating	\$	8,322,731	\$ 8,530,800	78727
604 430-604 Veterans Home Improvement	\$	770,096	\$ 770,096	78728
TOTAL SSR State Special Revenue Fund Group	\$	9,092,827	\$ 9,300,896	78730
TOTAL ALL BUDGET FUND GROUPS	\$	51,047,281	\$ 51,859,320	78731
Section 212.27. VET VETERANS' ORGANIZATIONS				78733
General Revenue Fund				78734
VAP AMERICAN EX-PRISONERS OF WAR				78735
GRF 743-501 State Support	\$	25,030	\$ 25,030	78736
VAN ARMY AND NAVY UNION, USA, INC.				78737
GRF 746-501 State Support	\$	55,012	\$ 55,012	78738
VKW KOREAN WAR VETERANS				78739
GRF 747-501 State Support	\$	49,453	\$ 49,453	78740

	VJW JEWISH WAR VETERANS				78741
GRF 748-501	State Support	\$	29,715	\$	29,715
	VCW CATHOLIC WAR VETERANS				78743
GRF 749-501	State Support	\$	57,990	\$	57,990
	VPH MILITARY ORDER OF THE PURPLE HEART				78745
GRF 750-501	State Support	\$	56,377	\$	56,377
	VVV VIETNAM VETERANS OF AMERICA				78747
GRF 751-501	State Support	\$	185,954	\$	185,954
	VAL AMERICAN LEGION OF OHIO				78749
GRF 752-501	State Support	\$	252,328	\$	252,328
	VII AMVETS				78751
GRF 753-501	State Support	\$	237,919	\$	237,919
	VAV DISABLED AMERICAN VETERANS				78753
GRF 754-501	State Support	\$	166,308	\$	166,308
	VMC MARINE CORPS LEAGUE				78755
GRF 756-501	State Support	\$	85,972	\$	85,972
	V37 37TH DIVISION AEF VETERANS' ASSOCIATION				78757
GRF 757-501	State Support	\$	5,946	\$	5,946
	VFW VETERANS OF FOREIGN WARS				78759
GRF 758-501	State Support	\$	196,615	\$	196,615
TOTAL GRF General Revenue Fund		\$	1,404,619	\$	1,404,619
TOTAL ALL BUDGET FUND GROUPS		\$	1,404,619	\$	1,404,619

RELEASE OF FUNDS 78763

The foregoing appropriation items 743-501, 746-501, 747-501, 78764
748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501, 78765
756-501, 757-501, and 758-501, State Support, shall be released 78766
upon approval by the Director of Budget and Management. 78767

CENTRAL OHIO UNITED SERVICES ORGANIZATION 78768

Of the foregoing appropriation item 751-501, State Support, 78769
Vietnam Veterans of America, \$50,000 in each fiscal year shall be 78770
used to support the activities of the Central Ohio USO. 78771

VETERANS SERVICE COMMISSION EDUCATION				78772
Of the foregoing appropriation item 753-501, State Support,				78773
AMVETS, up to \$20,000 in each fiscal year may be used to provide				78774
moneys to the Association of County Veterans Service Commissioners				78775
to reimburse its member county veterans service commissions for				78776
costs incurred in carrying out educational and outreach duties				78777
required under divisions (E) and (F) of section 5901.03 of the				78778
Revised Code. The Director of Budget and Management shall release				78779
these funds upon the presentation of an itemized receipt, approved				78780
by the Governor's Office of Veterans Affairs, from the association				78781
for reasonable and appropriate expenses incurred while performing				78782
these duties. The association shall establish uniform procedures				78783
for reimbursing member commissions.				78784
Section 212.30. DVM STATE VETERINARY MEDICAL BOARD				78785
General Services Fund Group				78786
4K9 888-609 Operating Expenses	\$	293,691	\$	0 78787
5BU 888-602 Veterinary Student	\$	60,000	\$	0 78788
Loan Program				
TOTAL GSF General Services				78789
Fund Group	\$	353,691	\$	0 78790
TOTAL ALL BUDGET FUND GROUPS	\$	353,691	\$	0 78791
CASH TRANSFER TO VETERINARY STUDENT LOAN PROGRAM FUND (FUND				78792
5BU)				78793
On July 1, 2005, or as soon as possible thereafter, the				78794
Director of Budget and Management shall transfer \$60,000 in cash				78795
from the Occupational Licensing and Regulatory Fund (Fund 4K9) to				78796
the Veterinary Student Loan Program Fund (Fund 5BU), which is				78797
hereby created. The amount of the transfer is hereby appropriated.				78798
VETERINARY STUDENT LOAN PROGRAM				78799
The foregoing appropriation item 888-602, Veterinary Student				78800

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

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GRF 470-401 RECLAIM Ohio	\$	177,016,683	\$	182,084,588	78807
GRF 470-412 Lease Rental Payments	\$	20,267,500	\$	21,882,700	78808
GRF 470-510 Youth Services	\$	18,608,587	\$	18,608,587	78809
GRF 472-321 Parole Operations	\$	14,358,995	\$	14,962,871	78810
GRF 477-321 Administrative	\$	14,239,494	\$	14,754,420	78811

Operations

TOTAL GRF General Revenue Fund	\$	244,491,259	\$	252,293,166	78812
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General Services Fund Group

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175 470-613 Education	\$	10,112,529	\$	9,450,598	78814
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Reimbursement

4A2 470-602 Child Support	\$	320,641	\$	328,657	78815
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4G6 470-605 General Operational	\$	10,000	\$	10,000	78816
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Funds

479 470-609 Employee Food Service	\$	141,466	\$	137,666	78817
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523 470-621 Wellness Program	\$	46,937	\$	0	78818
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6A5 470-616 Building Demolition	\$	31,100	\$	0	78819
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TOTAL GSF General Services					78820
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Fund Group	\$	10,662,673	\$	9,926,921	78821
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Federal Special Revenue Fund Group

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3V5 470-604 Juvenile	\$	4,254,745	\$	4,254,746	78823
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Justice/Delinquency
Prevention

3W0 470-611 Federal Juvenile	\$	222,507	\$	0	78824
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Programs FFY 02

3Z8 470-625 Federal Juvenile	\$	1,500,001	\$	773,812	78825
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	Programs FFY 04					
329	470-626	Federal Juvenile	\$	465,000	\$	0 78826
	Programs FFY 05					
321	470-601	Education	\$	1,422,580	\$	1,465,399 78827
321	470-603	Juvenile Justice	\$	1,981,169	\$	2,006,505 78828
	Prevention					
321	470-606	Nutrition	\$	2,471,550	\$	2,470,655 78829
321	470-614	Title IV-E	\$	4,960,589	\$	6,012,361 78830
	Reimbursements					
321	470-617	Americorps Programs	\$	456,000	\$	463,700 78831
	TOTAL FED Federal Special Revenue					78832
	Fund Group		\$	17,734,141	\$	17,447,178 78833
	State Special Revenue Fund Group					78834
147	470-612	Vocational Education	\$	1,937,784	\$	2,009,866 78835
4W3	470-618	Help Me Grow	\$	11,000	\$	11,000 78836
5BH	470-628	Partnerships for	\$	1,500,000	\$	1,500,000 78837
	Success					
	TOTAL SSR State Special Revenue					78838
	Fund Group		\$	3,448,784	\$	3,520,866 78839
	TOTAL ALL BUDGET FUND GROUPS		\$	276,336,857	\$	283,188,131 78840
	RECLAIM OHIO					78841
	Of the foregoing appropriation item 470-401, RECLAIM Ohio,					78842
	\$25,000 in each fiscal year shall be distributed directly to the					78843
	Lighthouse Youth Services Wrap-Around Program.					78844
	OHIO BUILDING AUTHORITY LEASE PAYMENTS					78845
	The foregoing appropriation item 470-412, Lease Rental					78846
	Payments, in the Department of Youth Services, shall be used for					78847
	payments to the Ohio Building Authority for the period from July					78848
	1, 2005, to June 30, 2007, under the primary leases and agreements					78849
	for facilities made under Chapter 152. of the Revised Code, but					78850
	limited to the aggregate amount of \$42,150,200. This appropriation					78851

is the source of funds pledged for bond service charges on related 78852
obligations issued pursuant to Chapter 152. of the Revised Code. 78853

EDUCATION REIMBURSEMENT 78854

The foregoing appropriation item 470-613, Education 78855
Reimbursement, shall be used to fund the operating expenses of 78856
providing educational services to youth supervised by the 78857
Department of Youth Services. Operating expenses include, but are 78858
not limited to, teachers' salaries, maintenance costs, and 78859
educational equipment. This appropriation item may be used for 78860
capital expenses related to the education program. 78861

EMPLOYEE FOOD SERVICE AND EQUIPMENT 78862

Notwithstanding section 125.14 of the Revised Code, the 78863
foregoing appropriation item 470-609, Employee Food Service, may 78864
be used to purchase any food operational items with funds received 78865
into the fund from reimbursement for state surplus property. 78866

PARTNERSHIPS FOR SUCCESS 78867

In fiscal year 2006, the foregoing appropriation item 78868
470-628, Partnerships for Success, shall be used to support the 78869
Partnerships for Success Project. On or before January 1, 2007, 78870
the Director of Budget and Management shall transfer any amount of 78871
cash that remains unspent in the Partnerships for Success Fund 78872
(Fund 5BH) to the Children's Trust Fund (Fund 198). 78873

FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF 78874
CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES 78875

Any business relating to the funds associated with the Office 78876
of Criminal Justice Services' appropriation item 196-602, Criminal 78877
Justice Federal Programs, commenced but not completed by the 78878
Office of Criminal Justice Services or its director shall be 78879
completed by the Department of Youth Services or its director in 78880
the same manner, and with the same effect, as if completed by the 78881

Office of Criminal Justice Services or its director. No 78882
validation, cure, right, privilege, remedy, obligation, or 78883
liability is lost or impaired by reason of the transfer and shall 78884
be administered by the Department of Youth Services. 78885

Any action or proceeding against the Office of Criminal 78886
Justice Services pending on the effective date of this section 78887
shall not be affected by the transfer of responsibility to the 78888
Department of Youth Services, and shall be prosecuted or defended 78889
in the name of the Department of Youth Services or its director. 78890
In all such actions and proceedings, the Department of Youth 78891
Services or its director upon application of the court shall be 78892
substituted as party. 78893

Section 303.03. EXPENDITURES AND APPROPRIATION INCREASES 78894
APPROVED BY THE CONTROLLING BOARD 78895

Any money that the Controlling Board approves for expenditure 78896
or any increase in appropriation authority that the Controlling 78897
Board approves under sections 127.14, 131.35, and 131.39 of the 78898
Revised Code or any other provision of law is hereby appropriated 78899
for the period ending June 30, 2007. 78900

Section 303.06. PERSONAL SERVICE EXPENSES 78901

Unless otherwise prohibited by law, any appropriation from 78902
which personal service expenses are paid shall bear the employer's 78903
share of public employees' retirement, workers' compensation, 78904
disabled workers' relief, and all group insurance programs; the 78905
costs of centralized accounting, centralized payroll processing, 78906
and related personnel reports and services; the cost of the Office 78907
of Collective Bargaining; the cost of the Personnel Board of 78908
Review; the cost of the Employee Assistance Program; the cost of 78909
the affirmative action and equal employment opportunity programs 78910
administered by the Department of Administrative Services; the 78911

costs of interagency information management infrastructure; and 78912
the cost of administering the state employee merit system as 78913
required by section 124.07 of the Revised Code. These costs shall 78914
be determined in conformity with the appropriate sections of law 78915
and paid in accordance with procedures specified by the Office of 78916
Budget and Management. Expenditures from appropriation item 78917
070-601, Public Audit Expense - Local Government, in Fund 422 may 78918
be exempted from the requirements of this section. 78919

Section 303.09. RE-ISSUANCE OF VOIDED WARRANTS 78920

In order to provide funds for the reissuance of voided 78921
warrants under section 117.47 of the Revised Code, there is hereby 78922
appropriated, out of moneys in the state treasury from the fund 78923
credited as provided in section 117.47 of the Revised Code, that 78924
amount sufficient to pay such warrants when approved by the Office 78925
of Budget and Management. 78926

Section 303.12. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 78927
AGAINST THE STATE 78928

Except as otherwise provided in this section, an 78929
appropriation in this act or any other act may be used for the 78930
purpose of satisfying judgments, settlements, or administrative 78931
awards ordered or approved by the Court of Claims or by any other 78932
court of competent jurisdiction in connection with civil actions 78933
against the state. This authorization does not apply to 78934
appropriations to be applied to or used for payment of guarantees 78935
by or on behalf of the state, or for payments under lease 78936
agreements relating to, or debt service on, bonds, notes, or other 78937
obligations of the state. Notwithstanding any other statute to the 78938
contrary, this authorization includes appropriations from funds 78939
into which proceeds of direct obligations of the state are 78940
deposited only to the extent that the judgment, settlement, or 78941

administrative award is for, or represents, capital costs for 78942
which the appropriation may otherwise be used and is consistent 78943
with the purpose for which any related obligations were issued or 78944
entered into. Nothing contained in this section is intended to 78945
subject the state to suit in any forum in which it is not 78946
otherwise subject to suit, and is not intended to waive or 78947
compromise any defense or right available to the state in any suit 78948
against it. 78949

Section 303.13. CAPITAL PROJECT SETTLEMENTS 78950

This section specifies an additional and supplemental 78951
procedure to provide for payments of judgments and settlements if 78952
the Director of Budget and Management determines, pursuant to 78953
division (C)(4) of section 2743.19 of the Revised Code, that 78954
sufficient unencumbered moneys do not exist in the particular 78955
appropriation to pay the amount of a final judgment rendered 78956
against the state or a state agency, including the settlement of a 78957
claim approved by a court, in an action upon and arising out of a 78958
contractual obligation for the construction or improvement of a 78959
capital facility if the costs under the contract were payable in 78960
whole or in part from a state capital projects appropriation. In 78961
such a case, the director may either proceed pursuant to division 78962
(C)(4) of section 2743.19 of the Revised Code or apply to the 78963
Controlling Board to increase an appropriation or create an 78964
appropriation out of any unencumbered moneys in the state treasury 78965
to the credit of the capital projects fund from which the initial 78966
state appropriation was made. The Controlling Board may approve or 78967
disapprove the application as submitted or modified. The amount of 78968
an increase in appropriation or new appropriation specified in an 78969
application approved by the Controlling Board is hereby 78970
appropriated from the applicable capital projects fund and made 78971
available for the payment of the judgment or settlement. 78972

If the director does not make the application authorized by 78973
this section or the Controlling Board disapproves the application, 78974
and the director does not make application under division (C)(4) 78975
of section 2743.19 of the Revised Code, the director shall for the 78976
purpose of making that payment make a request to the General 78977
Assembly as provided for in division (C)(5) of that section. 78978

Section 303.18. INCOME TAX DISTRIBUTION TO COUNTIES 78979

There are hereby appropriated out of any moneys in the state 78980
treasury to the credit of the General Revenue Fund, which are not 78981
otherwise appropriated, funds sufficient to make any payment 78982
required by division (B)(2) of section 5747.03 of the Revised 78983
Code. 78984

Section 303.21. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 78985
BALANCES OF OPERATING APPROPRIATIONS 78986

An unexpended balance of an operating appropriation or 78987
reappropriation that a state agency lawfully encumbered prior to 78988
the close of a fiscal year is reappropriated on the first day of 78989
July of the following fiscal year from the fund from which it was 78990
originally appropriated or reappropriated for the following period 78991
and shall remain available only for the purpose of discharging the 78992
encumbrance: 78993

(A) For an encumbrance for personal services, maintenance, 78994
equipment, or items for resale, other than an encumbrance for an 78995
item of special order manufacture not available on term contract 78996
or in the open market or for reclamation of land or oil and gas 78997
wells for a period of not more than five months from the end of 78998
the fiscal year; 78999

(B) For an encumbrance for an item of special order 79000
manufacture not available on term contract or in the open market, 79001
for a period of not more than five months from the end of the 79002

fiscal year or, with the written approval of the Director of Budget and Management, for a period of not more than twelve months from the end of the fiscal year; 79003
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(C) For an encumbrance for reclamation of land or oil and gas wells, for a period ending when the encumbered appropriation is expended or for a period of two years, whichever is less; 79006
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(D) For an encumbrance for any other expense, for such period as the director approves, provided such period does not exceed two years. 79009
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Any operating appropriations for which unexpended balances are reappropriated beyond a five-month period from the end of the fiscal year by division (B) of this section shall be reported to the Controlling Board by the Director of Budget and Management by the thirty-first day of December of each year. The report on each such item shall include the item, the cost of the item, and the name of the vendor. The report shall be updated on a quarterly basis for encumbrances remaining open. 79012
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Upon the expiration of the reappropriation period set out in divisions (A), (B), (C), or (D) of this section, a reappropriation made by this section lapses, and the Director of Budget and Management shall cancel the encumbrance of the unexpended reappropriation not later than the end of the weekend following the expiration of the reappropriation period. 79020
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Notwithstanding the preceding paragraph, with the approval of the Director of Budget and Management, an unexpended balance of an encumbrance that was reappropriated on the first day of July by this section for a period specified in division (C) or (D) of this section and that remains encumbered at the close of the fiscal biennium is hereby reappropriated on the first day of July of the following fiscal biennium from the fund from which it was originally appropriated or reappropriated for the applicable 79026
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period specified in division (C) or (D) of this section and shall 79034
remain available only for the purpose of discharging the 79035
encumbrance. 79036

The Director of Budget and Management may correct accounting 79037
errors committed by the staff of the Office of Budget and 79038
Management, such as re-establishing encumbrances or appropriations 79039
cancelled in error, during the cancellation of operating 79040
encumbrances in November and of non-operating encumbrances in 79041
December. 79042

If the Controlling Board approved a purchase, that approval 79043
remains in effect so long as the appropriation used to make that 79044
purchase remains encumbered. 79045

Section 306.03. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS 79046

The maximum amounts that may be assessed against nuclear 79047
electric utilities under division (B)(2) of section 4937.05 of the 79048
Revised Code are as follows: 79049

	FY 2006	FY 2007	
Department of Agriculture			79050
Fund 4E4 Utility Radiological Safety	\$73,059	\$73,059	79051
Department of Health			79052
Fund 610 Radiation Emergency Response	\$850,000	850,000	79053
Environmental Protection Agency			79054
Fund 644 ER Radiological Safety	\$286,114	\$286,114	79055
Emergency Management Agency			79056
Fund 657 Utility Radiological Safety	\$1,260,000	\$1,260,000	79057

Section 312.03. TRANSFERS TO THE GENERAL REVENUE FUND FROM 79059
NON-FEDERAL NON-GRF FUNDS 79060

Notwithstanding any other provision of law to the contrary, 79061
during fiscal years 2006 and 2007, the Director of Budget and 79062
Management is hereby authorized to transfer cash from non-federal, 79063

non-General Revenue Fund funds that are not constitutionally 79064
restricted to the General Revenue Fund. The total amount of cash 79065
transfers made pursuant to this section to the General Revenue 79066
Fund during fiscal years 2006 and 2007 shall not exceed 79067
\$60,000,000. 79068

Section 312.06. TRANSFERS TO THE GENERAL REVENUE FUND OF 79069
INTEREST EARNED 79070

Notwithstanding any provision of Ohio law to the contrary, 79071
the Director of Budget and Management, through June 30, 2007, may 79072
transfer interest earned by any fund in the Central Accounting 79073
System to the General Revenue Fund. This section does not apply to 79074
funds whose source of revenue is restricted or protected by the 79075
Constitution of this state, federal tax law, or the "Cash 79076
Management Improvement Act of 1990" 104 Stat. 1058 (1990), 31 79077
U.S.C. 6501, et. seq., as amended. 79078

Section 312.09. BUDGET STABILIZATION FUND TRANSFERS 79079

(A) Notwithstanding any provision of law to the contrary, 79080
through June 30, 2007, if the Director of Budget and Management 79081
determines that the estimated ending fund balance of the General 79082
Revenue Fund will be greater than the amounts assumed in this act 79083
for either fiscal year 2006 or 2007, the Director may transfer up 79084
to the excess balance to the Budget Stabilization Fund. This 79085
division does not apply to division (A) of Section 206.66.21, TANF 79086
TRANSFERS, of this act. 79087

(B) Notwithstanding any provision of law to the contrary, 79088
through June 30, 2007, if the Director of Budget and Management 79089
determines that state revenue receipts and available fund balances 79090
in any fund other than the General Revenue Fund exceed estimated 79091
state expenditures, the Director may transfer up to the excess 79092
revenue to the Budget Stabilization Fund. This division does not 79093

apply to revenue restricted or protected by the Ohio Constitution, 79094
federal tax law or grant requirements, or the "Cash Management 79095
Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501, 79096
et seq., as amended. 79097

(C) In executing division (A) of this section and division 79098
(A) of Section 206.66.21, TANF TRANSFERS, it is intended that 79099
these divisions be applied and construed so that both of the 79100
transfers authorized under these divisions may be made through 79101
June 30, 2007. 79102

(D) After making the transfers described in divisions (A) and 79103
(B) of this section, the Director of Budget and Management shall 79104
submit a report to the President of the Senate and the Speaker of 79105
the House of Representatives. 79106

Section 312.10. BUDGET STABILIZATION FUND TRANSFERS TO TAX 79107
AMNESTY PROGRAM 79108

Notwithstanding any provision of law to the contrary, through 79109
June 30, 2006, the Director of Budget and Management shall 79110
transfer a one-time payment in the amount of \$2,000,000 from the 79111
Budget Stabilization Fund to appropriation item 110-630, Tax 79112
Amnesty Promotion and Administration (Fund 5BW), in the Department 79113
of Taxation. The funds shall be used to pay for expenses incurred 79114
in promoting and administering the tax amnesty program run by the 79115
Department of Taxation. 79116

After receiving the revenue receipts from the tax amnesty 79117
program, the Director of Budget and Management shall transfer the 79118
first \$2,000,000 to the Budget Stabilization Fund, the next 79119
\$10,000,000 to the General Revenue Fund, and the remaining excess 79120
fund balance to the Budget Stabilization Fund. 79121

Section 312.12. GRF TRANSFER TO FUND 5N4, OAKS PROJECT 79122
IMPLEMENTATION 79123

On July 1, 2005, or as soon thereafter as possible, the 79124
Director of Budget and Management shall transfer an amount not to 79125
exceed \$675,000 in cash from the General Revenue Fund to Fund 5N4, 79126
OAKS Project Implementation. On July 1, 2006, or as soon 79127
thereafter as possible, the Director of Budget and Management 79128
shall transfer an amount not to exceed \$675,000 in cash from the 79129
General Revenue Fund to Fund 5N4, OAKS Project Implementation. 79130

Section 312.15. CORPORATE AND UCC FILING FUND TRANSFER TO GRF 79131

Not later than the first day of June in each year of the 79132
biennium, the Director of Budget and Management shall transfer 79133
\$1,000,000 from the Corporate and Uniform Commercial Code Filing 79134
Fund to the General Revenue Fund. 79135

Section 312.18. GRF TRANSFER TO THE NATIONAL GUARD 79136
SCHOLARSHIP RESERVE FUND 79137

On July 1, 2005, or as soon as possible thereafter, the 79138
Director of Budget and Management shall transfer an amount equal 79139
to the unencumbered balance as of June 30, 2004, in appropriation 79140
item 235-599, National Guard Scholarship Fund, from the General 79141
Revenue Fund to the National Guard Scholarship Reserve Fund (Fund 79142
5BM). 79143

Section 312.21. APPROPRIATIONS RELATED TO CASH TRANSFERS AND 79144
RE-ESTABLISHMENT OF ENCUMBRANCES 79145

Any cash transferred by the Director of Budget and Management 79146
under section 126.15 of the Revised Code is hereby appropriated. 79147
Any amounts necessary to re-establish appropriations or 79148
encumbrances under section 126.15 of the Revised Code are hereby 79149
appropriated. 79150

Section 312.24. TRANSFER FROM THE TOBACCO MASTER SETTLEMENT 79151

AGREEMENT FUND TO THE GENERAL REVENUE FUND 79152

Notwithstanding section 183.02 of the Revised Code, on July 79153
1, 2005, or as soon as possible thereafter, the Director of Budget 79154
and Management shall transfer \$5,000,000 cash from the Tobacco 79155
Master Settlement Agreement Fund (Fund 087) to the General Revenue 79156
Fund. Of the tobacco revenue that is credited to the Tobacco 79157
Master Settlement Agreement Fund (Fund 087) in fiscal year 2005, 79158
the share that is determined pursuant to section 183.02 of the 79159
Revised Code to be the amount transferred by the Director of 79160
Budget and Management from the Tobacco Master Settlement Agreement 79161
Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust 79162
Fund (Fund H87) shall be reduced by the amount that is transferred 79163
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 79164
the General Revenue Fund under this division. 79165

Section 312.27. Notwithstanding section 183.02 of the Revised 79166
Code, on July 1, 2005, or as soon as possible thereafter, the 79167
Director of Budget and Management shall transfer up to \$5,000,000 79168
cash from the Tobacco Master Settlement Agreement Fund (Fund 087) 79169
to the Healthy Ohioans Initiative Fund (Fund 5BL in the Department 79170
of Health). Of the tobacco revenue that is credited to the Tobacco 79171
Master Settlement Agreement Fund (Fund 087) in fiscal year 2005, 79172
the share that is determined pursuant to section 183.02 of the 79173
Revised Code to be the amount transferred by the Director of 79174
Budget and Management from the Tobacco Master Settlement Agreement 79175
Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust 79176
Fund (Fund H87) shall be reduced by the amount that is transferred 79177
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 79178
the Healthy Ohioans Initiative Fund (Fund 5BL) under this 79179
section. 79180

Section 315.03. CONSOLIDATION OF REGULATORY BOARDS 79181

(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:	79182 79183 79184
(1) The Chemical Dependency Professionals Board;	79185
(2) The Board of Chiropractic Examiners;	79186
(3) The Counselor, Social Worker, and Marriage and Family Therapist Board;	79187 79188
(4) The Ohio Board of Dietetics;	79189
(5) The Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board;	79190 79191
(6) The Ohio Optical Dispensers Board;	79192
(7) The State Board of Optometry;	79193
(8) The State Board of Orthotics, Prosthetics, and Pedorthics;	79194 79195
(9) The State Board of Psychology;	79196
(10) The Ohio Respiratory Care Board;	79197
(11) The Board of Speech-Language Pathology and Audiology;	79198
(12) The State Veterinary Medical Licensing Board.	79199
(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:	79200 79201 79202
(1) The Ohio Athletic Commission;	79203
(2) The Barber Board;	79204
(3) The State Board of Cosmetology;	79205
(4) The Board of Embalmers and Funeral Directors;	79206
(5) The Manufactured Homes Commission;	79207
(6) The Board of Motor Vehicle Collision Repair Registration;	79208

(7) The State Board of Sanitarian Registration. 79209

(C) It is the intent of the General Assembly to consolidate 79210
the Ohio Medical Transportation Board within the Department of 79211
Public Safety not later than July 1, 2006. 79212

(D) The Director of Budget and Management and the Directors 79213
of Administrative Services, Commerce, Health, and Public Safety 79214
shall appoint representatives to a transition team. 79215

The transition team shall develop a plan to ensure the smooth 79216
and timely consolidation of the boards into the respective 79217
departments. The transition team shall address the details of the 79218
consolidations, identifying necessary statutory changes and 79219
working with the Office of Budget and Management to develop 79220
budgets for the respective departments and the consolidated boards 79221
and commissions. The transition team may recommend additional 79222
regulatory boards or commissions to be consolidated and may 79223
recommend modifications to the planned consolidations. 79224

The transition team shall submit a report containing 79225
recommendations and the details for the consolidations not later 79226
than December 31, 2005, to the Governor, the Speaker of the House 79227
of Representatives, and the President of the Senate. The report 79228
and recommendations shall address the following issues, and may 79229
address additional issues: 79230

(1) The necessary levels of funding; 79231

(2) The savings projected as a result of the consolidations; 79232

(3) The consolidation of activities between each board or 79233
commission and the department providing centralized services, 79234
including the role of the members of the board or commission and 79235
the role of the department; 79236

(4) The staffing levels needed, whether employees must be 79237
retained, and whether any employees retained have civil service 79238

status;	79239
(5) The continuation of the standards and procedures of the board or commission;	79240 79241
(6) The continuation of rules and whether any rules need to be amended as a result of the consolidations;	79242 79243
(7) The transfer of assets, liabilities, and contractual obligations;	79244 79245
(8) The transfer of records and other materials pertaining to the board or commission.	79246 79247
(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.	79248 79249 79250 79251 79252
Section 315.03.03. EFFICIENCY STUDY TO CREATE REORGANIZATION PLAN FOR THE EXECUTIVE BRANCH OF THE STATE GOVERNMENT	79253 79254
(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	79255 79256 79257 79258 79259 79260 79261 79262 79263 79264 79265 79266 79267 79268

Section 315.03.06 of this act, and that will achieve minimum total 79269
savings of ten per cent in the current budgeted administrative 79270
costs for agencies, departments, divisions, public bodies, and 79271
programs of the state that are proposed to be transferred to the 79272
provisional Department of Community and Institutional 79273
Rehabilitation, as created by Section 315.03.06 of this act. 79274

(2) Agencies, departments, divisions, public bodies, and 79275
programs that are proposed to be transferred to a provisional 79276
department are transferred only for purposes of the efficiency 79277
study. This section and Section 315.03.06 of this act do not make 79278
nor intend to make any temporary or permanent structural changes 79279
to or in any such agency, department, division, public body, or 79280
program. 79281

(B) The Department of Administrative Services shall use the 79282
results of the efficiency study to develop a detailed 79283
reorganization plan, to further reorganize the provisional 79284
departments, to eliminate duplication of effort among the 79285
provisional departments, and to prepare a final report on the 79286
reorganization plan that shall be delivered by electronic means to 79287
the Governor, the Speaker of the House of Representatives, the 79288
President of the Senate, the Minority Leader of the House of 79289
Representatives, and the Minority Leader of the Senate, and posted 79290
on the Department's web site, not later than January 1, 2007. 79291

(C) The reorganization plan shall cover or include all of the 79292
following relating to the reorganization described in division (A) 79293
of this section: 79294

(1) Estimated costs; 79295

(2) Projected savings in real dollar amounts; 79296

(3) Projected improvements in service; 79297

(4) Anticipated effects on cost-sharing and management of 79298

federal grants;	79299
(5) Efficient citizen input into provisional department decisions;	79300 79301
(6) Methods of ensuring accountability for results;	79302
(7) A proposed timetable for implementing the reorganization;	79303
(8) Any legislation that must be enacted to implement the reorganization.	79304 79305
Section 315.03.06. SPECIFIC PROVISIONAL DEPARTMENT STRUCTURES	79306 79307
For purposes of the efficiency study required by Section 315.03.03 of this act, there is hereby created each of the following:	79308 79309 79310
(A) A provisional Department of Education that shall consist of the following divisions and be headed by the provisional Executive Director of Education:	79311 79312 79313
(1) A Division of Primary and Secondary Education, headed by the chief of the Division;	79314 79315
(2) A Division of Higher Education for Four-Year Colleges and Universities, headed by the chief of the Division;	79316 79317
(3) A Division of Higher Education for Two-Year Colleges, headed by the chief of the Division;	79318 79319
(4) A Division of Education Finance, headed by the chief of the Division;	79320 79321
(5) A Division of Education Technology, headed by the chief of the Division;	79322 79323
(6) A Division of Cultural Resources, headed by the chief of the Division.	79324 79325
(B) A provisional Department of Public Safety that shall	79326

consist of the following divisions and be headed by the	79327
provisional Executive Director of Public Safety:	79328
(1) A Division of Uniformed Services, headed by the chief of	79329
the Division;	79330
(2) A Division of Public Safety Services, headed by the chief	79331
of the Division;	79332
(3) A Division of Homeland Security and Emergency Management,	79333
headed by the chief of the Division;	79334
(4) A Division of Grants and Disbursements, headed by the	79335
chief of the Division;	79336
(5) A Division of Prevention and Enforcement, headed by the	79337
chief of the Division.	79338
(C) A provisional Department of Public Health that shall	79339
consist of the following divisions and be headed by the	79340
provisional Executive Director of Public Health:	79341
(1) A Division of Health and Well-Being, headed by the chief	79342
of the Division;	79343
(2) A Division of Community Care Support Services, headed by	79344
the chief of the Division;	79345
(3) A Division of Medicaid Services, headed by the chief of	79346
the Division;	79347
(4) A Division of Medical Professional and State Healthcare	79348
System Regulation, headed by the chief of the Division;	79349
(5) A Division of Veterans' Affairs, headed by the chief of	79350
the Division.	79351
(D) A provisional Department of Transportation and	79352
Infrastructure that shall consist of the following divisions and	79353
be headed by the provisional Executive Director of Transportation	79354
and Infrastructure:	79355

(1) A Division of System Maintenance, headed by the chief of the Division;	79356 79357
(2) A Division of System Regulation, headed by the chief of the Division;	79358 79359
(3) A Division of System Design and Construction, headed by the chief of the Division;	79360 79361
(4) A Division of Public Transportation, headed by the chief of the Division;	79362 79363
(5) A Division of Infrastructure Financing and Revenue Distribution, headed by the chief of the Division.	79364 79365
(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:	79366 79367 79368
(1) A General Services Division, headed by the chief of the Division;	79369 79370
(2) A Human Resources Division, headed by the chief of the Division;	79371 79372
(3) A Facilities and Maintenance Division, headed by the chief of the Division;	79373 79374
(4) An Information Technology Division, headed by the chief of the Division;	79375 79376
(5) A Division of Financial Operations, headed by the chief of the Division;	79377 79378
(6) A Division of Revenue Administration, headed by the chief of the Division.	79379 79380
(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:	79381 79382 79383
(1) An Employment Services Division, headed by the chief of	79384

the Division;	79385
(2) A Rehabilitation Services Division, headed by the chief of the Division;	79386 79387
(3) A Children and Family Services Division, headed by the chief of the Division;	79388 79389
(4) A Human Rights Division, headed by the chief of the Division.	79390 79391
(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:	79392 79393 79394 79395
(1) A Division of Corrections Officer Administration, headed by the chief of the Division;	79396 79397
(2) A Division of Correctional Support Services, headed by the chief of the Division;	79398 79399
(3) A Division of Correctional Facilities Maintenance, headed by the chief of the Division;	79400 79401
(4) A Division of Parole and Community Services, headed by the chief of the Division.	79402 79403
(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:	79404 79405 79406
(1) A Division of Licensing and Coordination, headed by the chief of the Division;	79407 79408
(2) A Division of Financial Institutions and Securities Coordination, headed by the chief of the Division;	79409 79410
(3) A Division of Building and Real Estate Coordination, headed by the chief of the Division;	79411 79412
(4) A Division of Insurance Coordination, headed by the chief	79413

of the Division.	79414
(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:	79415 79416 79417
(1) A Division of Land, headed by the chief of the Division;	79418
(2) A Waste and Water Division, headed by the chief of the Division;	79419 79420
(3) A Resource Quality Assurance Division, headed by the chief of the Division;	79421 79422
(4) A Division of Public Awareness, headed by the chief of the Division;	79423 79424
(5) A Division of Grants and Disbursements, headed by the chief of the Division.	79425 79426
Section 315.03.09. EXPIRATION OF PROVISIONAL DEPARTMENTS	79427
Sections 315.03.03 and 315.03.06 of this act shall expire on January 30, 2007.	79428 79429
Section 315.06. CAREER-TECHNICAL SCHOOL BUILDING ASSISTANCE PROGRAM	79430 79431
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.	79432 79433 79434 79435 79436 79437 79438 79439
All current and pending loans and appropriations, encumbrances, and funds related to the Career-Technical School	79440 79441

Building Assistance Fund (Fund 020), deemed necessary by the 79442
Commission to implement section 3318.48 of the Revised Code, shall 79443
be transferred to the Commission not later than one hundred twenty 79444
days after the effective date of this section in accordance with 79445
the transition plan. 79446

Any business commenced but not completed by the Department on 79447
the effective date of this section relating to the implementation 79448
of section 3318.48 of the Revised Code and the functions 79449
transferred by this section shall continue to be administered by 79450
the Department for a period of one hundred twenty days after the 79451
effective date of this section or until the transition plan 79452
described in this section is approved by the Commission, whichever 79453
occurs first. The Department shall provide the Commission whatever 79454
administrative assistance the Commission requires during the 79455
period of transition, which assistance shall be specified in the 79456
transition plan described in this section. 79457

Wherever any law, contract, or other document refers to the 79458
Department, the State Board of Education, or the Superintendent of 79459
Public Instruction in regard to the implementation or 79460
administration of section 3318.48 of the Revised Code, the 79461
references shall be deemed to refer to the Commission or the 79462
Director of the Commission. No action or proceeding pending on the 79463
effective date of this section relating to the implementation or 79464
administration of Chapter 3318. of the Revised Code is affected by 79465
the transfer. In all such actions and proceedings, the Commission 79466
or the Director shall be substituted as a party upon application 79467
by the receiving entity to the court or other appropriate 79468
tribunal. 79469

Section 315.09. ELIMINATION OF THE OHIO EDUCATIONAL 79470
TELECOMMUNICATIONS NETWORK COMMISSION 79471

(A) Effective July 1, 2005, the Ohio Educational 79472

Telecommunications Network Commission is abolished and, subject to 79473
the recommendations of any task force appointed by the Governor to 79474
consider issues of administrative reorganization and approved by 79475
the Governor, its functions, assets, and liabilities, including 79476
but not limited to vehicles and equipment assigned to employees of 79477
the Commission and records of the Commission regardless of form or 79478
medium, are transferred to the agency designated by the Governor. 79479
The agency is thereupon and thereafter successor to, assumes the 79480
obligations of, and otherwise constitutes the continuation of the 79481
Ohio Educational Telecommunications Network Commission. The 79482
functions of the Executive Director of the Commission are 79483
thereupon and thereafter transferred to the chief administrator of 79484
the agency designated by the Governor. 79485

Any business commenced but not completed by the Ohio 79486
Educational Telecommunications Network Commission or the Executive 79487
Director of the Commission on July 1, 2005, shall be completed by 79488
the agency designated by the Governor or the chief administrator 79489
of that agency, respectively, in the same manner, and with the 79490
same effect, as if completed by the Ohio Educational 79491
Telecommunications Network Commission or the Executive Director of 79492
the Commission. No validation, cure, right, privilege, remedy, 79493
obligation, or liability is lost or impaired by reason of the 79494
transfer required under this section and shall be administered by 79495
the agency designated by the Governor. All of the Ohio Educational 79496
Telecommunications Network Commission's rules, orders, and 79497
determinations continue in effect as rules, orders, and 79498
determinations of the agency designated by the Governor, until 79499
modified or rescinded by that agency. If necessary to ensure the 79500
integrity of the Administrative Code, the Director of the 79501
Legislative Service Commission shall renumber the Ohio Educational 79502
Telecommunications Network Commission's rules to reflect their 79503
transfer to the agency designated by the Governor. 79504

(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 79535

(A) Effective July 1, 2005, the Ohio SchoolNet Commission is 79536
abolished and, subject to the recommendations of any task force 79537
appointed by the Governor to consider issues of administrative 79538
reorganization and approved by the Governor, its functions, 79539
assets, and liabilities, including, but not limited to, vehicles 79540
and equipment assigned to employees of the Commission and records 79541
of the Commission regardless of form or medium, are transferred to 79542
the agency designated by the Governor. The agency is thereupon and 79543
thereafter successor to, assumes the obligations of, and otherwise 79544
constitutes the continuation of the Ohio SchoolNet Commission. The 79545
functions of the Executive Director of the Commission are 79546
thereupon and thereafter transferred to the chief administrator of 79547
the agency designated by the Governor. 79548

Any business commenced but not completed by the Ohio 79549
SchoolNet Commission or the Executive Director of the Commission 79550
on July 1, 2005, shall be completed by the agency designated by 79551
the Governor or the chief administrator of that agency, 79552
respectively, in the same manner, and with the same effect, as if 79553
completed by the Ohio SchoolNet Commission or the Executive 79554
Director of the Commission. No validation, cure, right, privilege, 79555
remedy, obligation, or liability is lost or impaired by reason of 79556
the transfer required under this section and shall be administered 79557
by the agency designated by the Governor. All of the Ohio 79558
SchoolNet Commission's rules, orders, and determinations continue 79559
in effect as rules, orders, and determinations of the agency 79560
designated by the Governor, until modified or rescinded by that 79561
agency. If necessary to ensure the integrity of the Administrative 79562
Code, the Director of the Legislative Service Commission shall 79563
renumber the Ohio SchoolNet Commission's rules to reflect their 79564
transfer to the agency designated by the Governor. 79565

(B) Employees of the Ohio SchoolNet Commission shall be 79566
transferred to the agency designated by the Governor or dismissed 79567

in accordance with recommendations approved by the Governor under 79568
division (A) of this section. Subject to lay-off provisions of 79569
sections 124.321 to 124.328 of the Revised Code, those employees 79570
of the Ohio SchoolNet Commission so transferred to the agency 79571
designated by the Governor retain their positions and all of the 79572
benefits accruing thereto. Employees of the Ohio SchoolNet 79573
Commission so dismissed cease to hold their positions of 79574
employment on July 1, 2005. 79575

Ohio SchoolNet Commission employees transferred under 79576
provisions of this section shall remain in the unclassified 79577
service of the state. 79578

The reassignment of the functions and duties of Ohio 79579
SchoolNet Commission employees under this section is not a subject 79580
appropriate for collective bargaining under Chapter 4117. of the 79581
Revised Code. All positions of any Ohio SchoolNet Commission 79582
employees transferred to the agency designated by the Governor 79583
under this section shall not be subject to Chapter 4117. of the 79584
Revised Code in the same manner as when those positions were under 79585
the authority of the Ohio SchoolNet Commission. 79586

(C) No judicial or administrative action or proceeding in 79587
which the Ohio SchoolNet Commission or the Executive Director of 79588
the Commission is a party that is pending on July 1, 2005, is 79589
affected by the transfer of functions under division (A) of this 79590
section. Such action or proceeding shall be prosecuted or defended 79591
in the name of the Director of the Office of Budget and 79592
Management. On application to the court or other tribunal, the 79593
Director of the Office of Budget and Management shall be 79594
substituted for the Executive Director of the Commission as a 79595
party to such action or proceeding. 79596

(D) On and after July 1, 2005, when the Ohio SchoolNet 79597
Commission or the Executive Director of the Ohio SchoolNet 79598

Commission is referred to in any statute, rule, contract, grant, 79599
or other document, the reference is hereby deemed to refer to the 79600
agency designated by the Governor or the chief administrator of 79601
that agency, respectively. 79602

Section 315.11. TRANSFER OF FUNDS TO THE AGENCIES 79603

On and after July 1, 2005, notwithstanding any provision of 79604
law to the contrary, the Director of Budget and Management is 79605
authorized to take the actions described in this section with 79606
respect to budget changes made necessary by administrative 79607
reorganization, program transfers, the creation of new funds, and 79608
the consolidation of funds as authorized by this act. The Director 79609
may make any transfer of cash balances between funds. At the 79610
request of the Director, the controlling authority of the agencies 79611
designated by the Governor under Section 315.09 or 315.10 of this 79612
act shall certify to the Director an estimate of the amount of the 79613
cash balance to be transferred to the receiving funds. The 79614
Director may transfer the estimated amount when needed to make 79615
payments. Not more than thirty days after certifying the estimated 79616
amount, the controlling authority of the agencies shall certify 79617
the final amount to the Director. The Director shall transfer the 79618
difference between any amount previously transferred and the 79619
certified final amount. The Director may cancel encumbrances and 79620
re-establish encumbrances or parts of encumbrances as needed in 79621
fiscal year 2006 in the appropriate funds and appropriation items 79622
for the same purposes. The appropriation authority necessary to 79623
re-establish such encumbrances in fiscal year 2006 as determined 79624
by the Director, in a different fund or appropriation item, within 79625
an agency or between agencies, is hereby appropriated. When 79626
re-established encumbrances or parts of re-established 79627
encumbrances are cancelled, the Director shall reduce the 79628
appropriations for these respective funds and appropriation items 79629

by the amount of the encumbrances cancelled. The amounts cancelled 79630
are hereby authorized. Any fiscal year 2005 unencumbered or 79631
unallotted appropriation balances may be transferred to the 79632
appropriate funds and appropriation items to be used for the same 79633
purposes, as determined by the Director. The amounts transferred 79634
are hereby appropriated. 79635

Section 318.03. GENERAL OBLIGATION DEBT SERVICE PAYMENTS 79636

Certain appropriations are in this act for the purpose of 79637
paying debt service and financing costs on general obligation 79638
bonds or notes of the state issued pursuant to the Ohio 79639
Constitution and acts of the General Assembly. If it is determined 79640
that additional appropriations are necessary for this purpose, 79641
such amounts are hereby appropriated. 79642

Section 318.06. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF 79643
STATE 79644

Certain appropriations are in this act for the purpose of 79645
making lease payments pursuant to leases and agreements relating 79646
to bonds or notes issued by the Ohio Building Authority or the 79647
Treasurer of State or, previously, by the Ohio Public Facilities 79648
Commission, pursuant to the Ohio Constitution and acts of the 79649
General Assembly. If it is determined that additional 79650
appropriations are necessary for this purpose, such amounts are 79651
hereby appropriated. 79652

Section 318.09. AUTHORIZATION FOR TREASURER OF STATE AND OBM 79653
TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 79654

The Office of Budget and Management shall initiate and 79655
process disbursements from general obligation and lease rental 79656
payment appropriation items during the period from July 1, 2005, 79657
to June 30, 2007, relating to bonds or notes issued under Sections 79658

2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, 79659
and Chapters 151. and 154. of the Revised Code. Disbursements 79660
shall be made upon certification by the Treasurer of State of the 79661
dates and the amounts due on those dates. 79662

Section 318.12. ISSUANCE OF OBLIGATIONS BY THE OHIO COAL 79663
DEVELOPMENT OFFICE 79664

The Ohio Public Facilities Commission, upon the request of 79665
the Director of the Ohio Coal Development Office of the Ohio Air 79666
Quality Development Authority with the advice of the Technical 79667
Advisory Committee created in section 1551.35 of the Revised Code 79668
and the approval of the Executive Director of the Ohio Air Quality 79669
Development Authority, is hereby authorized to issue and sell, in 79670
accordance with Section 15 of Article VIII, Ohio Constitution, and 79671
Chapter 151. and particularly sections 151.01 and 151.07 of the 79672
Revised Code, bonds and other obligations of the State of Ohio in 79673
an aggregate principal amount not to exceed \$15,000,000 in 79674
addition to the issuance of obligations heretofore authorized by 79675
prior acts of the General Assembly. The obligations shall be 79676
dated, issued, and sold from time to time in such amounts as may 79677
be necessary to provide sufficient moneys to the credit of the 79678
Coal Research and Development Fund created in section 1555.15 of 79679
the Revised Code to pay costs charged to the fund when due. 79680

Section 321.03. STATE AND LOCAL REBATE AUTHORIZATION 79681

There is hereby appropriated, from those funds designated by 79682
or pursuant to the applicable proceedings authorizing the issuance 79683
of state obligations, amounts computed at the time to represent 79684
the portion of investment income to be rebated or amounts in lieu 79685
of or in addition to any rebate amount to be paid to the federal 79686
government in order to maintain the exclusion from gross income 79687
for federal income tax purposes of interest on those state 79688

obligations under section 148(f) of the Internal Revenue Code.	79689
Rebate payments shall be approved and vouchered by the Office of Budget and Management.	79690 79691
Section 321.06. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT	79692
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 the funds identified by the plan. The amounts necessary to re-establish all or part of encumbrances are hereby appropriated.	79693 79694 79695 79696 79697 79698
Section 321.09. STATEWIDE INDIRECT COST RECOVERY	79699
Whenever the Director of Budget and Management determines that an appropriation made to a state agency from a fund of the state is insufficient to provide for the recovery of statewide indirect costs under section 126.12 of the Revised Code, the amount required for such purpose is hereby appropriated from the available receipts of such fund.	79700 79701 79702 79703 79704 79705
Section 321.10. GRF TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT COST ALLOCATION PLAN	79706 79707
The total transfers made from the General Revenue Fund by the Director of Budget and Management under this section shall not exceed the amounts transferred into the General Revenue Fund under division (B) of section 126.12 of the Revised Code.	79708 79709 79710 79711
The director of an agency may certify to the Director of Budget and Management the amount of expenses not allowed to be included in the Statewide Indirect Cost Allocation Plan under federal regulations, from any fund included in the Statewide Indirect Cost Allocation Plan, prepared as required by section	79712 79713 79714 79715 79716

126.12 of the Revised Code. 79717

Upon determining that no alternative source of funding is 79718
available to pay for such expenses, the Director of Budget and 79719
Management may transfer from the General Revenue Fund into the 79720
fund for which the certification is made, up to the amount of the 79721
certification. The director of the agency receiving such funds 79722
shall include, as part of the next budget submission prepared 79723
under section 126.02 of the Revised Code, a request for funding 79724
for such activities from an alternative source such that further 79725
federal disallowances would not be required. 79726

Section 321.11. FEDERAL GOVERNMENT INTEREST REQUIREMENTS 79727

Notwithstanding any provision of law to the contrary, on or 79728
before the first day of September of each fiscal year, the 79729
Director of Budget and Management, in order to reduce the payment 79730
of adjustments to the federal government, as determined by the 79731
plan prepared under division (A) of section 126.12 of the Revised 79732
Code, may designate such funds as the director considers necessary 79733
to retain their own interest earnings. 79734

Section 401.05. That Sections 16.09, 19.01, 20.01, 22.03, 79735
23.11, 23.12, 23.13, 23.26, 23.45, and 24.01 of Am. Sub. H.B. 16 79736
of the 126th General Assembly be amended to read as follows: 79737

Appropriations

				79738
Sec. 16.09.	OSB SCHOOL FOR THE BLIND			
CAP-774	Glass Windows/E Wall of Natatorium	\$	63,726	79739
CAP-775	Renovation of Science Lab Greenhouse	\$	58,850	79740
CAP-776	Renovating Recreation Area	\$	213,900	79741
CAP-777	New Classrooms for Secondary MH Program	\$	880,407	79742
CAP-778	Renovation of Student Health Service Area	\$	144,375	79743

CAP-779	Replacement of Cottage Windows	\$	208,725	79744
CAP-780	New School Lighting	\$	184,500	79745
<u>782</u>				
CAP-781	Food Prep. Area Air Conditioning	\$	67,250	79746
Total School for the Blind		\$	1,821,733	79747

Sec. 19.01. All items set forth in this section are hereby 79748
appropriated out of any moneys in the state treasury to the credit 79749
of the Cultural and Sports Facilities Building Fund (Fund 030) 79750
that are not otherwise appropriated. 79751

Appropriations

AFC CULTURAL FACILITIES COMMISSION				79752
CAP-010	Sandusky State Theatre Improvements	\$	325,000	79753
CAP-013	Stambaugh Hall Improvements	\$	250,000	79754
CAP-033	Woodward Opera House Renovation	\$	100,000	79755
CAP-038	Center Exhibit Replacement	\$	816,000	79756
CAP-043	Statewide Site Repairs	\$	100,000	79757
CAP-044	National Underground Railroad Freedom Center	\$	4,150,000	79758
CAP-046	Cincinnati Museum Center Improvements	\$	250,000	79759
CAP-052	Akron Art Museum	\$	1,012,500	79760
CAP-053	Powers Auditorium Improvements - Eleanor Beecher Flad Pavilion	\$	250,000	79761
CAP-065	Beck Center for the Cultural Arts	\$	100,000	79762
CAP-069	Cleveland Institute of Art	\$	250,000	79763
CAP-071	Cleveland Institute of Music	\$	750,000	79764
CAP-073	Marina District/Ice Arena Development	\$	3,500,000	79765
CAP-074	Stan Hywet Hall & Gardens - West Vista Restoration	\$	750,000	79766
CAP-745	Emergency Repairs	\$	838,560	79767
CAP-769	Rankin House State Memorial	\$	192,000	79768
CAP-781	Archives and Library Automation	\$	624,000	79769
CAP-784	Center Rehabilitation	\$	960,000	79770

CAP-806	Grant Boyhood Home Improvements	\$	480,000	79771
CAP-812	Schuster Arts Center	\$	5,500,000	79772
CAP-823	Marion Palace Theatre	\$	750,000	79773
CAP-826	Renaissance Theatre	\$	750,000	79774
CAP-834	Galion Historic Big Four Depot Restoration	\$	170,000	79775
CAP-835	Jamestown Opera House	\$	125,000	79776
CAP-844	Charles A. Eulett Education Center/Edge of Appalachia Museum Center	\$	1,850,000	79777
CAP-845	Lima Historic Athletic Field	\$	100,000	79778
CAP-846	Butler Palace Theatre	\$	100,000	79779
CAP-847	Voice of America Museum	\$	275,000	79780
CAP-848	Oxford Arts Center ADA Project	\$	72,000	79781
CAP-849	Clark County Community Arts Expansion Project	\$	500,000	79782
CAP-850	Westcott House Historic Site	\$	75,000	79783
CAP-851	General Lytle Homestead - Harmony Hill	\$	50,000	79784
CAP-852	Miami Township Community Amphitheatre	\$	50,000	79785
CAP-853	Western Reserve Historical Society	\$	1,000,000	79786
CAP-854	Steamship Mather Museum	\$	100,000	79787
CAP-855	Rock and Roll Hall of Fame	\$	250,000	79788
CAP-856	Friendly Inn Settlement House Historic Site	\$	250,000	79789
CAP-857	Merrick House Historic Site	\$	250,000	79790
CAP-858	Strongsville Historic Building	\$	100,000	79791
CAP-859	Arts Castle	\$	100,000	79792
CAP-860	Great Lakes Historical Society	\$	325,000	79793
CAP-861	Ohio Glass Museum	\$	250,000	79794
CAP-862	Goll Wood Homestead	\$	50,000	79795
CAP-863	Ariel Theatre	\$	100,000	79796
CAP-864	Bellbrook/Sugarcreek Historical Society	\$	10,000	79797
CAP-865	Kennedy Stone House	\$	15,000	79798
CAP-866	Sports Facilities Improvements -	\$	4,350,000	79799

	Cincinnati			
CAP-867	Ensemble Theatre	\$	450,000	79800
CAP-868	Taft Museum	\$	500,000	79801
CAP-869	Art Academy of Cincinnati	\$	100,000	79802
CAP-870	Riverbend Pavilion Improvements	\$	250,000	79803
CAP-871	Cincinnati Art & Technology Academy - Longworth Hall	\$	100,000	79804
CAP-872	Music Hall: Over-The-Rhine	\$	750,000	79805
CAP-873	John Bloomfield Home Restoration	\$	115,000	79806
CAP-874	Malinta Historical Society Caboose Exhibit	\$	6,000	79807
CAP-875	Hocking County Historical Society - Schempp House	\$	10,000	79808
CAP-876	Art Deco Markay Theater	\$	200,000	79809
CAP-877	Harvey Wells House	\$	100,000	79810
CAP-878	Bryn Du	\$	250,000	79811
CAP-879	Broad Street Historical Renovation	\$	300,000	79812
CAP-880	Amherst Historical Society	\$	35,000	79813
CAP-881	COSI - Toledo	\$	1,900,000	79814
CAP-882	Ohio Theatre - Toledo	\$	100,000	79815
CAP-883	Chester Academy Historic Site Renovations	\$	25,000	79816
CAP-884	Bradford Ohio Railroad Museum	\$	100,000	79817
CAP-885	Montgomery County Historical Society Archives	\$	100,000	79818
CAP-886	Nelson T. Gant Historic Homestead	\$	25,000	79819
CAP-887	Aurora Outdoor Sports Complex	\$	50,000	79820
CAP-888	Preble County Historical Society	\$	100,000	79821
CAP-889	Tecumseh Sugarloaf Mountain Amphitheatre	\$	120,000	79822
CAP-890	Pro Football Hall of Fame	\$	400,000	79823
CAP-891	MAPS Air Museum	\$	15,000	79824
CAP-892	Foundation Community Theatre <u>Theatre</u>	\$	50,000	79825
CAP-893	William McKinley Library Restoration	\$	250,000	79826
CAP-894	Hale Farm & Village	\$	250,000	79827

CAP-895	Blossom Music Center	\$	2,512,500	79828
CAP-896	Richard Howe House	\$	100,000	79829
CAP-897	Ward-Thomas Museum	\$	30,000	79830
CAP-898	Packard Music Hall Renovation Project	\$	100,000	79831
CAP-899	Holland Theatre	\$	100,000	79832
CAP-900	Van Wert Historical Society	\$	32,000	79833
CAP-901	Warren County Historical Society	\$	225,000	79834
CAP-902	Marietta Colony Theatre	\$	335,000	79835
CAP-903	West Salem Village Opera House	\$	92,000	79836
CAP-904	Beavercreek Community Theater	\$	100,000	79837
CAP-905	Smith Orr Homestead	\$	100,000	79838
Total Cultural Facilities Commission		\$	43,592,560	79839
			<u>41,080,060</u>	
TOTAL Cultural and Sports Facilities Building Fund		\$	43,592,560	79840
			<u>41,080,060</u>	

Sec. 20.01. All items set forth in this section are hereby 79842
appropriated out of any moneys in the state treasury to the credit 79843
of the Ohio Parks and Natural Resources Fund (Fund 031) that are 79844
not otherwise appropriated. 79845

Appropriations

DNR DEPARTMENT OF NATURAL RESOURCES				79846
STATEWIDE AND LOCAL PROJECTS				79847
CAP-012	Land Acquisition	\$	750,000	79848
CAP-051	Buck Creek State Park - Camp/Dock Renovations	\$	25,000	79849
CAP-060	East Fork State Park Renovation	\$	50,000	79850
CAP-080	Atwood Lake Conservancy District	\$	75,000	79851
CAP-083	John Bryan State Park Shelter Construction	\$	30,000	79852
CAP-084	Findley State Park General Improvements	\$	12,500	79853
CAP-085	The Wilds Carnivore Center	\$	1,000,000	79854
CAP-086	Scippo Creek Conservation	\$	75,000	79855

CAP-087	Belpre City Swimming Pool	\$	125,000	79856
CAP-705	Ohio-Erie Canal Tuscarawas River Logjam Removal	\$	25,000	79857
CAP-748	Local Parks Projects - Statewide	\$	2,511,079	79858
CAP-753	Project Planning	\$	1,144,316	79859
CAP-881	Dam Rehabilitation	\$	5,000,000	79860
CAP-931	Wastewater/Water Systems Upgrades	\$	2,900,000	79861
Total Statewide and Local Projects		\$	13,722,895	79862
			<u>12,722,895</u>	79863
Total Department of Natural Resources		\$	13,722,895	79864
			<u>12,722,895</u>	79865
TOTAL Ohio Parks and Natural Resources Fund		\$	13,722,895	79866
			<u>12,722,895</u>	79867

Appropriations

Sec. 22.03. DMH DEPARTMENT OF MENTAL HEALTH				79869
CAP-479	Community Assistance Projects	\$	1,800,000	79870
			<u>1,900,000</u>	
CAP-978	Infrastructure Improvements	\$	8,050,000	79871
CAP-989	Cleveland Christian Home	\$	100,000	79872
Total Department of Mental Health		\$	9,950,000	79873

COMMUNITY ASSISTANCE PROJECTS 79874

Of the foregoing appropriation item CAP-479, Community Assistance Projects, \$200,000 shall be used for the Center for Families and Children, \$100,000 shall be used for the Cleveland Christian Home, and \$100,000 shall be used for the Berea Children's Home. 79875
79876
79877
79878
79879

Sec. 23.11. UCN UNIVERSITY OF CINCINNATI				79880
CAP-009	Basic Renovations	\$	7,022,622	79881
CAP-018	Basic Renovations-Clermont	\$	198,926	79882
CAP-054	Basic Renovations-Walters	\$	336,439	79883

CAP-131	Cinergy Convention Center	\$	2,500,000	79884
CAP-174	Classroom/Teaching Laboratory Renovations	\$	3,280,000	79885
CAP-176	Network Expansion	\$	1,820,000	79886
CAP-205	Medical Science Building	\$	5,870,374	79887
CAP-209	Library Renovations	\$	1,450,000	79888
CAP-224	Van Wormer Administrative Building Rehabilitation	\$	2,632,000	79889
CAP-263	Swift Rehabilitation	\$	9,000,000	79890
CAP-265	Rieveschl/Crosley Rehab/Expansion	\$	619,579	79891
CAP-269	Raymond Walters Veterinary College	\$	1,244,131	79892
CAP-313	Expand Clermont	\$	657,770	79893
CAP-329	Uptown Consortium Renovation of Turner Place	\$	250,000	79894
<u>CAP-335</u>	<u>People Working Cooperatively</u>	\$	<u>100,000</u>	79895
Total University of Cincinnati		\$	36,881,841 <u>36,981,841</u>	79896

Appropriations

Sec. 23.12. CLS CLEVELAND STATE UNIVERSITY				79898
CAP-023	Basic Renovations	\$	3,267,875	79899
CAP-125	College of Education Building	\$	8,057,262	79900
CAP-130	WVIZ Technology Center/Playhouse Square	\$	750,000	79901
CAP-152	Rhodes Tower-Data Center Relocation	\$	1,000,000	79902
CAP-153	University Annex-Vacation and Demolition	\$	49,390	79903
CAP-154	Main Classroom Stair Tower & Entry	\$	1,500,000	79904
CAP-155	Cleveland Playhouse	\$	250,000	79905
CAP-156	Physical Education Building Rehabilitation	\$	1,000,000	79906
Total Cleveland State University		\$	15,874,527 <u>15,124,527</u>	79907

Appropriations

Sec. 23.13. KSU KENT STATE UNIVERSITY			79909
CAP-022	Basic Renovations	\$ 3,573,078	79910
CAP-105	Basic Renovations-East Liverpool	\$ 151,408	79911
CAP-106	Basic Renovations-Geauga	\$ 45,607	79912
CAP-107	Basic Renovations-Salem	\$ 105,640	79913
CAP-108	Basic Renovations-Stark	\$ 325,358	79914
CAP-110	Basic Renovations-Ashtabula	\$ 177,801	79915
CAP-111	Basic Renovations-Trumbull	\$ 347,695	79916
CAP-112	Basic Renovations-Tuscarawas	\$ 171,699	79917
CAP-212	Health Science Building, Planning	\$ 705,720	79918
CAP-235	Rehabilitation of Franklin Hall	\$ 13,923,684	79919
CAP-260	Land Acquisitions & Improvements-East Liverpool	\$ 638,419	79920
CAP-261	Addition/Renovation of Classrooms-Geauga	\$ 246,878	79921
CAP-262	Gym Renovation Planning-Salem	\$ 490,213	79922
CAP-263	Parking Lot & Roadway Paving-Stark	\$ 162,076	79923
CAP-264	Fine Arts Building & New Campus Center-Stark	\$ 1,000,000	79924
CAP-265	Science Lab Addition-Trumbull	\$ 991,786	79925
CAP-266	Fine & Performing Arts Center - Tuscarawas	\$ 844,655	79926
CAP-267	Columbiana County Port Authority	\$ 875,000	79927
CAP-268	Canton Convention Center	\$ 735,000	79928
<u>CAP-269</u>	<u>Blossom Music Center</u>	<u>\$ 2,512,500</u>	79929
Total Kent State University		\$ 25,511,717 <u>28,024,217</u>	79930

Sec. 23.26. CCC CUYAHOGA COMMUNITY COLLEGE			79932
			Appropriations
CAP-031	Basic Renovations	\$ 2,428,960	79933
CAP-079	Cleveland Art Museum Improvements	\$ 3,000,000	79934
CAP-094	Collegewide Wayfinding Signage System	\$ 1,067,510	79935
CAP-095	Collegewide Asset Protection and	\$ 1,491,522	79936

	Building Codes Upgrade		
CAP-096	Health Care Technology Building - Eastern	\$	6,050,264 79937
<u>CAP-097</u>	<u>WVIZ Technology Center/Playhouse Square</u>	\$	<u>750,000</u> 79938
	Total Cuyahoga Community College	\$	14,038,256 79939
			<u>14,788,256</u>

Sec. 23.45. STC STARK TECHNICAL COLLEGE

79940

CAP-004	Basic Renovations	\$	438,295 79941
CAP-035	Business Technologies Addition Rehabilitation	\$	1,378,892 79942
CAP-037	Fuel Cell Initiative	\$	250,000 79943
	Total Stark Technical College	\$	2,067,187 79944
	Total Board of Regents and State Institutions of Higher Education	\$	488,343,998 79945
			<u>490,956,498</u>
	TOTAL Higher Education Improvement Fund	\$	489,371,036 79946
			<u>491,983,536</u>

Sec. 24.01. All items set forth in this section are hereby 79949
appropriated out of any moneys in the state treasury to the credit 79950
of the Parks and Recreation Improvement Fund (Fund 035) that are 79951
not otherwise appropriated. 79952

Appropriations

DNR DEPARTMENT OF NATURAL RESOURCES

79953

CAP-004	Burr Oak Lodge	\$	150,000 79954
CAP-012	Land Acquisition	\$	243,663 79955
<u>CAP-085</u>	<u>The Wilds Carnivore Center</u>	\$	<u>1,000,000</u> 79956
CAP-088	Muskingum River Lock and Dam	\$	250,000 79957
CAP-234	State Park Campgrounds, Cabins, and Lodges	\$	2,712,500 79958
CAP-331	Park Boating Facilities	\$	7,588,383 79959
CAP-701	Buckeye Lake State Park - Dam	\$	4,000,000 79960

	Rehabilitation			
CAP-718	Grand Lake St. Mary's State Park Erosion Control Project	\$	450,000	79961
CAP-748	Local Park Projects	\$	2,715,000	79962
CAP-753	Project Planning	\$	175,000	79963
CAP-848	Hazardous Dam Repair - Statewide	\$	1,325,000	79964
CAP-876	Statewide Trails	\$	1,101,500	79965
CAP-931	Statewide Wastewater/Water Systems Upgrade	\$	2,500,000	79966
Total Department of Natural Resources		\$	23,211,046	79967
			<u>24,211,046</u>	79968
TOTAL Parks and Recreation Improvement Fund		\$	23,211,046	79969
			<u>24,211,046</u>	79970
	FEDERAL REIMBURSEMENT			79971
	All reimbursements received from the federal government for any expenditures made pursuant to this section shall be deposited in the state treasury to the credit of the Parks and Recreation Improvement Fund (Fund 035).			79972 79973 79974 79975
	LOCAL PARKS PROJECTS			79976
	Of the foregoing appropriation item CAP-748, Local Parks Projects, \$75,000 shall be used for the Springfield Arts Veterans' Park; \$50,000 shall be used for the Village of Bentleyville Park; \$25,000 shall be used for the Cleveland Police and Firefighters Memorial Park; \$100,000 shall be used for the Parma Heights Greenbriar Park; \$125,000 shall be used for the Fairborn Park Entrance Project; \$250,000 shall be used for the Greene County Soccer Park; \$750,000 shall be used for the Banks Park; \$400,000 shall be used for the Colerain Township Park Improvements; \$200,000 shall be used for the Colerain Township Heritage Park; \$75,000 shall be used for the London Park Project; \$50,000 shall be used for Somerset Park Improvements; \$50,000 shall be used for Meadowbrook Park; \$25,000 shall be used for Early Hill Park;			79977 79978 79979 79980 79981 79982 79983 79984 79985 79986 79987 79988 79989

\$25,000 shall be used for the Wright-Flyer Aviation Park; \$200,000 shall be used for Madison Township Park; \$10,000 shall be used for the Wellington Soccer Field Park; \$10,000 shall be used for the Greenwich Township Baseball Field Park Improvements; \$20,000 shall be used for the City of London Sports Park; \$25,000 shall be used for the Pleasant Hill Park Ball Field Project; and \$250,000 shall be used for the Education Gateway at Sippo Lake Park.

STATEWIDE TRAILS PROGRAM

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.

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.

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:

Sec. 203.03.09. PUBLIC ACCESS ROADS FOR STATE FACILITIES

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, 80019
to and within state facilities owned or operated by the Department 80020
of Natural Resources. 80021

Notwithstanding section 5511.06 of the Revised Code, of the 80022
foregoing appropriation item 772-421, Highway Construction - 80023
State, \$2,228,000 in each fiscal year of the fiscal year 2006-2007 80024
biennium shall be used by the Department of Transportation for the 80025
construction, reconstruction, or maintenance of park drives or 80026
park roads within the boundaries of metropolitan parks. 80027

Included in the foregoing appropriation item 772-421, Highway 80028
Construction - State, the department may perform related road work 80029
on behalf of the Ohio Expositions Commission at the state 80030
fairgrounds, including reconstruction or maintenance of public 80031
access roads and support features, to and within fairground 80032
facilities as requested by the commission and approved by the 80033
Director of Transportation. 80034

LIQUIDATION OF UNFORESEEN LIABILITIES 80035

Any appropriation made to the Department of Transportation, 80036
Highway Operating Fund, not otherwise restricted by law, is 80037
available to liquidate unforeseen liabilities arising from 80038
contractual agreements of prior years when the prior year 80039
encumbrance is insufficient. 80040

Sec. 203.03.10. PREVENTIVE MAINTENANCE 80041

The Department of Transportation shall contract with an 80042
independent party to ~~issue a yearly report~~ conduct a study and 80043
issue a report on the effectiveness and progress of preventive 80044
maintenance projects ~~that meet warranty guidelines. The~~ 80045
Thereafter, the Department shall issue a yearly report on or 80046
before the first day of December for three consecutive years 80047
~~beginning in fiscal year 2005.~~ 80048

~~The Department shall provide in its annual report data on~~ 80049
actual and planned pavement preventive maintenance activities. The 80050
data shall include the following: (1) the total number of lane 80051
miles receiving preventive maintenance treatment, by treatment 80052
type and highway system category; (2) the total number of lane 80053
miles programmed to receive treatment; (3) the actual costs of the 80054
pavement preventive maintenance activities per lane mile, by 80055
treatment type and highway system category; (4) the total number 80056
of lane miles rehabilitated or reconstructed; and (5) the actual 80057
cost per lane mile of rehabilitated or reconstructed highway, by 80058
highway system category. 80059

Section 401.12. That existing Sections 203.03.09 and 80060
203.03.10 of Am. Sub. H.B. 68 of the 126th General Assembly are 80061
hereby repealed. 80062

Section 401.13. Notwithstanding section 5511.05 of the 80063
Revised Code, the Director of Transportation shall confer with the 80064
Director of Natural Resources in fiscal years 2006 and 2007 80065
concerning the establishment, construction, reconstruction, 80066
improvement, repair, and maintenance of all roads and bridges 80067
within the boundaries of all state parks, including all such parks 80068
and properties under the control and custody of the Department of 80069
Natural Resources. After conferring with the Director of Natural 80070
Resources, the Director of Transportation shall establish, 80071
construct, reconstruct, improve, repair, and maintain all such 80072
roads and bridges. \$5,000,000 shall be expended to establish, 80073
construct, reconstruct, improve, repair, and maintain all such 80074
roads and bridges in each fiscal year. 80075

Section 403.05. That Section 4 of Am. Sub. H.B. 516 of the 80076
125th General Assembly be amended to read as follows: 80077

Sec. 4. The following agencies shall be retained pursuant to		80078
division (D) of section 101.83 of the Revised Code and shall		80079
expire on December 31, 2010:		80080
	REVISED CODE	80081
	OR	
	UNCODIFIED	80082
AGENCY NAME	SECTION	80083
Administrator, Interstate Compact on Mental Health	5119.50	80084
Administrator, Interstate Compact on	5103.20	80085
Placement of Children		80086
Advisory Board of Governor's Office of Faith-Based	107.12	80087
and Community Initiatives		
Advisory Boards to the EPA for Air Pollution	121.13	80088
Advisory Boards to the EPA for Water Pollution	121.13	80089
Advisory Committee of the State Veterinary Medical	4741.03(D)(3)	80090
Licensing Board		
Advisory Committee on Livestock Exhibitions	901.71	80091
Advisory Council on Amusement Ride Safety	1711.51	80092
Advisory Board of Directors for Prison Labor	5145.162	80093
Advisory Council for Each Wild, Scenic, or	1517.18	80094
Recreational River Area		
Advisory Councils or Boards for State Departments	107.18 or	80095
	121.13	
Advisory Group to the Ohio Water Resources Council	1521.19(C)	80096
Alzheimer's Disease Task Force	173.04(F)	80097
AMBER Alert Advisory Committee	5502.521	80098
Apprenticeship Council	4139.02	80099
Armory Board of Control	5911.09	80100
Automated Title Processing Board	4505.09(C)(1)	80101
Banking Commission	1123.01	80102
Board of Directors of the Ohio Health Reinsurance	3924.08	80103
Program		

Board of Voting Machine Examiners	3506.05(B)	80104
Board of Tax Appeals	5703.02	80105
Brain Injury Advisory Committee	3304.231	80106
Capitol Square Review and Advisory Board	105.41	80107
Child Support Guideline Advisory Council	3119.024	80108
Children's Trust Fund Board	3109.15	80109
Citizens Advisory Committee (BMV)	4501.025	80110
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	80111
Clean Ohio Trail Advisory Board	1519.06	80112
Coastal Resources Advisory Council	1506.12	80113
Commission on African-American Males	4112.12	80114
Commission on Hispanic-Latino Affairs	121.31	80115
Commission on Minority Health	3701.78	80116
Committee on Prescriptive Governance	4723.49	80117
Commodity Advisory Commission	926.32	80118
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	80119
Community Oversight Council	3311.77	80120
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA	80121
Consumer Advisory Committee to the Rehabilitation Services Commission	3304.24	80122
Continuing Education Committee (for Sheriffs)	109.80	80123
Controlling Board	127.12	80124
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14	80125
Council on Alcohol and Drug Addiction Services	3793.09	80126
Council on Unreclaimed Strip Mined Lands	1513.29	80127
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34	80128

County Sheriffs' Standard Car-Marking and Uniform Commission	311.25	80129
Credit Union Council	1733.329	80130
Criminal Sentencing Advisory Committee	181.22	80131
Day-Care Advisory Council	5104.08	80132
Dentist Loan Repayment Advisory Board	3702.92	80133
Development Financing Advisory Council	122.40	80134
Education Commission of the States (Interstate Compact for Education)	3301.48	80135
Electrical Safety Inspector Advisory Committee	3783.08	80136
Emergency Response Commission	3750.02	80137
Engineering Experiment Station Advisory Committee	3335.27	80138
Environmental Education Council	3745.21	80139
Environmental Review Appeals Commission	3745.02	80140
EPA Advisory Boards or Councils	121.13	80141
Farmland Preservation Advisory Board	901.23	80142
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05	80143
Financial Planning & Supervision Commission for School District	3316.05	80144
Forestry Advisory Council	1503.40	80145
Governance Authority for a State University or College	3345.75	80146
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77	80147
Governor's Council on People with Disabilities	3303.41	80148
Governor's Residence Advisory Commission	107.40	80149
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	80150
Gubernatorial Transition Committee	107.29	80151
Head Start Partnership Study Council	Section 41.35, H.B. 95, 125th GA	80152
Hemophilia Advisory Subcommittee	3701.0210	80153

Housing Trust Fund Advisory Committee	175.25	80154
Industrial Commission Nominating Council	4121.04	80155
Industrial Technology and Enterprise Advisory Council	122.29	80156
Infant Hearing Screening Subcommittee	3701.507	80157
Insurance Agent Education Advisory Council	3905.483	80158
Interagency Council on Hispanic/Latino Affairs	121.32(J)	80159
Interstate Mining Commission (Interstate Mining Compact)	1514.30	80160
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35	80161
Joint Council on MR/DD	101.37	80162
Joint Select Committee on Volume Cap	133.021	80163
Labor-Management Government Advisory Council	4121.70	80164
Legal Rights Service Commission	5123.60	80165
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	80166
Maternal and Child Health Council	3701.025	80167
Medically Handicapped Children's Medical Advisory Council	3701.025	80168
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361	80169
Military Activation Task Force	5902.15	80170
Milk Sanitation Board	917.03	80171
Mine Subsidence Insurance Governing Board	3929.51	80172
Minority Development Financing Board	122.72	80173
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	80174
Multidisciplinary Council	3746.03	80175
Muskingum River Advisory Council	1501.25	80176
National Museum of Afro-American History and Culture Planning Committee	149.303	80177

Nursing Facility Reimbursement Study Council	5111.34	80178
Ohio Advisory Council for the Aging	173.03	80179
Ohio Aerospace & Defense Advisory Council	122.98	80180
Ohio Arts Council	3379.02	80181
Ohio Business Gateway Steering Committee	5703.57	80182
Ohio Cemetery Dispute Resolution Commission	4767.05	80183
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)	80184
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03	80185
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	80186
Ohio Commission on Dispute Resolution and Conflict Management	179.02	80187
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA	80188
Ohio Community Service Council	121.40	80189
Ohio Council for Interstate Adult Offender Supervision	5149.22	80190
Ohio Cultural Facilities Commission	3383.02	80191
Ohio Developmental Disabilities Council	5123.35	80192
Ohio Educational Telecommunications Network Commission	3353.02	80193
Ohio Ethics Commission	102.05	80194
Ohio Expositions Commission	991.02	80195
Ohio Family and Children First Cabinet Council	121.37	80196
Ohio Geology Advisory Council	1505.11	80197
Ohio Grape Industries Committee	924.51	80198
Ohio Hepatitis C Advisory Commission	3701.92	80199
Ohio Historic Site Preservation Advisory Board	149.301	80200
Ohio Historical Society Board of Trustees	149.30	80201
Ohio Judicial Conference	105.91	80202

Ohio Lake Erie Commission	1506.21	80203
Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA	80204
Ohio Medical Quality Foundation	3701.89	80205
Ohio Parks and Recreation Council	1541.40	80206
Ohio Peace Officer Training Commission	109.71	80207
Ohio Public Defender Commission	120.01	80208
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA	80209
Ohio Public Works Commission	164.02	80210
Ohio Quarter Horse Development Commission	3769.086	80211
Ohio SchoolNet Commission	3301.80	80212
Ohio Small Government Capital Improvements Commission	164.02	80213
Ohio Soil and Water Conservation Commission	1515.02	80214
Ohio Standardbred Development Commission	3769.085	80215
Ohio Steel Industry Advisory Council	122.97	80216
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	80217
Ohio Thoroughbred Racing Advisory Committee	3769.084	80218
Ohio Tuition Trust Authority	3334.03	80219
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	80220
Ohio Vendors Representative Committee	3304.34	80221
Ohio War Orphans Scholarship Board	5910.02	80222
Ohio Water Advisory Council	1521.031	80223

Ohio Water Resources Council	1521.19	80224
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62	80225
Oil and Gas Commission	1509.35	80226
Operating Committee, Agricultural Commodity Marketing Programs	924.07	80227
Organized Crime Investigations Commission	177.01	80228
Parole Board	5149.10	80229
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81	80230
Physician Loan Repayment Advisory Board	3702.81	80231
Power Siting Board	4906.02	80232
Prequalification Review Board	5525.07	80233
Private Water Systems Advisory Council	3701.346	80234
Public Employment Risk Reduction Advisory Commission	4167.02	80235
Public Health Council	3701.33	80236
Public Utilities Commission Nominating Council	4901.021	80237
Public Utility Property Tax Study Committee	5727.85	80238
Radiation Advisory Council	3748.20	80239
Reclamation Commission	1513.05	80240
Recreation and Resources Commission	1501.04	80241
Recycling and Litter Prevention Advisory Council	1502.04	80242
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	80243
Release Authority of Department of Youth Services	5139.50	80244
Savings & Loans Associations & Savings Banks Board	1181.16	80245
Schools and Ministerial Lands Divestiture Committee	501.041	80246
Second Chance Trust Fund Advisory Committee	2108.17	80247
Self-Insuring Employers Evaluation Board	4123.352	80248
Services Committee of the Workers' Compensation System	4121.06	80249

Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	80250
Solid Waste Management Advisory Council	3734.51	80251
State Agency Coordinating Group	1521.19	80252
State Board of Deposit	135.02	80253
State Board of Emergency Medical Services	4765.04	80254
Subcommittees		
State Council of Uniform State Laws	105.21	80255
State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32	80256
State Criminal Sentencing Commission	181.21	80257
State Employment Relations Board	4117.02	80258
State Fire Commission	3737.81	80259
State Racing Commission	3769.02	80260
State Victims Assistance Advisory Committee	109.91	80261
Student Tuition Recovery Authority	3332.081	80262
Tax Credit Authority	122.17	80263
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35	80264
Technical Advisory Council on Oil and Gas	1509.38	80265
Transportation Review Advisory Council	5512.07	80266
Unemployment Compensation Review Commission	4141.06	80267
Unemployment Compensation Advisory Council	4141.08	80268
Utility Radiological Safety Board	4937.02	80269
Vehicle Management Commission	125.833	80270
Veterans Advisory Committee	5902.02(K)	80271
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02	80272
Water and Sewer Commission	1525.11(C)	80273
Waterways Safety Council	1547.73	80274
Wildlife Council	1531.03	80275
Workers' Compensation System Oversight Commission	4121.12	80276

Workers' Compensation Oversight Commission 4121.123 80277
Nominating Committee

Section 403.06. That existing Section 4 of Am. Sub. H.B. 516 80278
of the 125th General Assembly is hereby repealed. 80279

Section 403.11. That Section 3 of Am. Sub. H.B. 621 of the 80280
122nd General Assembly, as most recently amended by Am. Sub. H.B. 80281
95 of the 125th General Assembly, be amended to read as follows: 80282

Sec. 3. That sections 166.031, 901.80, 901.81, 901.82, and 80283
901.83 of the Revised Code are hereby repealed, effective October 80284
15, ~~2005~~ 2007. 80285

Section 403.12. That existing Section 3 of Am. Sub. H.B. 621 80286
of the 122nd General Assembly, as most recently amended by Am. 80287
Sub. H.B. 95 of the 125th General Assembly, is hereby repealed. 80288

Section 403.17. That Section 153 of Am. Sub. H.B. 117 of the 80289
121st General Assembly, as most recently amended by Am. Sub. H.B. 80290
95 of the 125th General Assembly, be amended to read as follows: 80291

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 80292
5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 80293
5112.19, 5112.21, and 5112.99 of the Revised Code are hereby 80294
repealed, effective October 16, ~~2005~~ 2007. 80295

(B) Any money remaining in the Legislative Budget Services 80296
Fund on October 16, ~~2005~~ 2007, the date that section 5112.19 of 80297
the Revised Code is repealed by division (A) of this section, 80298
shall be used solely for the purposes stated in then former 80299
section 5112.19 of the Revised Code. When all money in the 80300
Legislative Budget Services Fund has been spent after then former 80301
section 5112.19 of the Revised Code is repealed under division (A) 80302
of this section, the fund shall cease to exist. 80303

Section 403.18. That existing Section 153 of Am. Sub. H.B. 80304
117 of the 121st General Assembly, as most recently amended by Am. 80305
Sub. H.B. 95 of the 125th General Assembly, is hereby repealed. 80306

Section 403.23. That Section 5 of Am. Sub. S.B. 50 of the 80307
121st General Assembly, as most recently amended by Am. Sub. H.B. 80308
95 of the 125th General Assembly, be amended to read as follows: 80309

Sec. 5. Sections 3 and 4 of Am. Sub. S.B. 50 of the 121st 80310
General Assembly shall take effect July 1, ~~2005~~ 2007. 80311

Section 403.24. That existing Section 5 of Am. Sub. S.B. 50 80312
of the 121st General Assembly, as most recently amended by Am. 80313
Sub. H.B. 95 of the 125th General Assembly is hereby repealed. 80314

Section 490.03. That Section 59.19 of Am. Sub. H.B. 95 of the 80315
125th General Assembly is hereby repealed. 80316

Section 490.06. That Section 147 of Am. Sub. H.B. 95 of the 80317
125th General Assembly is hereby repealed. 80318

Section 501.03. (A) There is hereby created the Task Force on 80319
Law Library Associations, consisting of thirteen members. The 80320
Speaker and Minority Leader of the House of Representatives shall 80321
each appoint one member of the House of Representatives to the 80322
Task Force. The President and Minority Leader of the Senate shall 80323
each appoint one member of the Senate to the Task Force. The Ohio 80324
Judicial Conference shall appoint three members to the Task Force, 80325
two of whom shall be judges who are members of the Conference and 80326
one of whom shall be a law librarian associated with a law library 80327
association. The County Commissioners Association of Ohio shall 80328
appoint three members to the Task Force, one of whom shall be a 80329
representative of the public. The Ohio State Bar Association shall 80330

appoint three members to the Task Force, two of whom shall be 80331
attorneys licensed to practice law in this state and one of whom 80332
shall be a law librarian associated with a law library 80333
association. Appointments to the Task Force shall be made by 80334
September 1, 2005. Vacancies on the Task Force shall be filled in 80335
the manner provided for original appointments. 80336

(B)(1) The Task Force shall do each of the following: 80337

(a) Gather information on and study the current state of the 80338
law library associations in this state covered by sections 3375.48 80339
to 3375.56 of the Revised Code, with particular emphasis on the 80340
structure, funding, and administration of their law libraries, and 80341
on the effect of technology on, and access to, their law 80342
libraries; 80343

(b) Make recommendations on the structure, funding, and 80344
administration of these law libraries presently and over the next 80345
five calendar years; 80346

(c) Make recommendations as to how to ensure that these law 80347
libraries remain open and may be made available to members of the 80348
public. 80349

(2) The Task Force shall submit a report of its findings and 80350
recommendations to the Speaker and Minority Leader of the House of 80351
Representatives, the President and Minority Leader of the Senate, 80352
and the Chief Justice of the Supreme Court by June 30, 2006. Upon 80353
submission of its report, the Task Force shall cease to exist. 80354

(C) Sections 101.82 to 101.87 of the Revised Code do not 80355
apply to the Task Force. 80356

Section 503.03. As used in this section, "state agency" means 80357
the administrative departments identified in section 121.02 of the 80358
Revised Code and the bureau of workers' compensation. 80359

During 2005, the Auditor of State shall examine the 80360
compliance of each state agency with the requirements of section 80361
131.02 of the Revised Code. The examination shall inquire into the 80362
following matters: 80363

(A) The practices and procedures used by the agency to 80364
collect claims before the claims are certified to the Attorney 80365
General as required by section 131.02 of the Revised Code; 80366

(B) The number of individuals employed by the agency or 80367
engaged under contract with the agency in 2003 and 2004 whose only 80368
or whose primary duty is to collect amounts owed to the agency; 80369

(C) For claims certified to the Attorney General under 80370
section 131.02 of the Revised Code in 2003 and 2004, the average 80371
number of days elapsing between the last day for timely payment of 80372
the claims and the day the agency certified the claim to the 80373
Attorney General. 80374

For the purposes of the examination required by this section, 80375
the Auditor of State may request a state agency to provide reports 80376
to the Auditor of State on the matters described under divisions 80377
(A), (B), and (C) of this section. State agencies shall provide 80378
such reports to the Auditor of State within 60 days after the 80379
request, but the Auditor of State may extend the time for 80380
providing the report for good cause for up to sixty days. 80381

Not later than March 31, 2006, the Auditor of State shall 80382
submit a written report of the Auditor of State's findings under 80383
this section to the Governor, the Speaker of the House of 80384
Representatives, the President of the Senate, and the Legislative 80385
Service Commission. 80386

Section 503.09. (A) There is hereby created the Correctional 80387
Faith-Based Initiatives Task Force consisting of the following 80388
fifteen members: 80389

(1) One member of the House of Representatives appointed by the Speaker of the House of Representatives;	80390 80391
(2) One member of the House of Representatives appointed by the leader of the minority party of the House of Representatives;	80392 80393
(3) One member of the Senate appointed by the President of the Senate;	80394 80395
(4) One member of the Senate appointed by the Minority Leader of the Senate;	80396 80397
(5) Two members appointed by the Governor;	80398
(6) The Director of Rehabilitation and Correction or the director's designee;	80399 80400
(7) Three members appointed by the Director of Rehabilitation and Correction who have expertise or experience in faith-based programs in the correctional setting;	80401 80402 80403
(8) The Director of Job and Family Services or the director's designee;	80404 80405
(9) The Director of Youth Services or the director's designee;	80406 80407
(10) The Director of Alcohol and Drug Addiction Services or the director's designee;	80408 80409
(11) The Director of Mental Health or the director's designee;	80410 80411
(12) One member appointed by the executive assistant in charge of the Governor's Office of Faith-Based and Community Initiatives.	80412 80413 80414
(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	80415 80416 80417 80418

force shall meet at least once each month. The Department of 80419
Rehabilitation and Correction shall provide the task force with a 80420
meeting room and secretarial assistance. 80421

(C) The task force shall study seamless faith-based solutions 80422
to problems in the correctional system, focusing on diversion 80423
programs, programs and services in the prison system and for 80424
families of incarcerated individuals, and the faith-based and 80425
nonprofit organizations that provide the programs and services. 80426
The task force shall examine existing faith-based programs in 80427
prisons in Ohio and other states and shall consider the 80428
feasibility of replicating programs from other states and 80429
developing model faith-based penal institutions, faith-based units 80430
within penal institutions, and faith-based programs to reduce 80431
recidivism of offenders after their release from prison, improve 80432
prison management, and deal with juveniles who have been held over 80433
to or are in the adult penal system or who have parents who are 80434
incarcerated. 80435

(D) On or before the first anniversary of the effective date 80436
of this section, the task force shall provide a written report and 80437
recommendations to the Governor, the Speaker of the House of 80438
Representatives, and the President of the Senate. Upon submitting 80439
the report and recommendations, the task force shall cease to 80440
exist. 80441

Section 503.12. (A) There is hereby created the Local 80442
Government and Library Financing and Support Committee consisting 80443
of the following eight members: 80444

(1) Four members of the House of Representatives who are 80445
members of the House Finance and Appropriations Committee, two 80446
appointed by the Speaker of the House of Representatives and two 80447
appointed by the Minority Leader of the House of Representatives; 80448

(2) Four members of the Senate who are members of the Senate 80449
Finance and Financial Institutions Committee, two appointed by the 80450
President of the Senate and two appointed by the Minority Leader 80451
of the Senate. 80452

All appointments shall be made within thirty days after the 80453
effective date of this section. Vacancies on the Committee shall 80454
be filled in the same manner as the original appointments. The 80455
Speaker shall designate one of the members of the Committee to 80456
serve as chairperson. 80457

(B) The Committee shall study potential sources of state 80458
funding for the Local Government Fund, the Library and Local 80459
Government Support Fund, and the Local Government Revenue 80460
Assistance Fund that have the capacity to allow for growth in 80461
funding levels and to provide stability in funding levels. 80462

(C) The Committee may request staff assistance from the Tax 80463
Commissioner and the Legislative Service Commission. 80464

(D) Not later than June 1, 2006, the Committee shall submit a 80465
report to the Governor and to the General Assembly setting forth 80466
the Committee's recommendations for sources of funding for the 80467
funds specified in division (B) of this section, together with 80468
suggested legislation to implement the recommendations. The 80469
Committee may submit additional recommendations after June 1, 80470
2006, to the Governor and the General Assembly. 80471

(E) The Committee shall cease to exist on December 31, 2006. 80472

Section 506.03. (A) The Governor is hereby authorized to 80473
execute a deed in the name of the state conveying to 80474
Hocking.Athens.Perry Community Action and its successors and 80475
assigns all of the state's right, title, and interest in the 80476
following described real estate: 80477

Situate in the Village of Glouster, Trimble Township, Athens 80478

County, Ohio, and being a part of a tract as described in Volume 80479
384, Page 47 of the Deed Records of Athens County, and being more 80480
particularly described as follows: 80481

Beginning at an iron pin set at the northeast corner of Lot 80482
848 of the Wassall Fire Clay Company's Addition to the Village of 80483
Glouster; thence along the south line of a 10.00 foot alley South 80484
85° 54' 29" East 219.30 feet to an iron pin set, thence along the 80485
west line of a 4.27 acre tract (ORV 4-442) South 2° 25' 37" East, 80486
528.53 feet to an iron pin found; thence along the west line of a 80487
44.21 acre tract (ORV 172-611) South 24° 08' 53" West, 412.51 feet 80488
to an iron pin found; thence North 81° 51' 07" West 594.65 feet to 80489
a point on the east right of way line of the former Toledo and 80490
Ohio Central Railroad (passing an iron pin found at 586.43 feet); 80491
thence along said line North 1° 39' 06" West, 734.24 feet to an 80492
iron pin found; thence along the south line of Lot 860 in said 80493
Village South 85° 54' 11" East, 188.77 feet to an iron pin set; 80494
thence along the east line of Lots 860 and 859 North 4° 05' 20" 80495
East, 100.00 feet to an iron pin set (an iron pin found for 80496
reference bears South 70° 30' 21" East, 1.01 feet); thence along 80497
the south line of Lots 857 and 848 South 85° 54' 29" East, 340.04 80498
feet to an iron pin found; thence along the east line of Lot 848 80499
North 4° 05' 30" East, 40.00 feet to the point of beginning and 80500
containing 14.046 acres. 80501

Subject to all Easements and Rights of Way of Record. 80502

Bearings used are to an assumed meridian and are for angular 80503
determination only. 80504

Surveyed October 1996 by Kenneth E. Highland, Ohio PLS 80505
#S-7581. 80506

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TWO TRACTS: 80507

Tract 1-0.020 acre: Situate in the Village of Glouster, 80508
Trimble Township, Athens County, Ohio, and being a part of a tract 80509

as previously described in Volume 384, Page 47 of the Deed Records 80510
of Athens County and being more particularly described as follows: 80511
Commencing at an iron pin set at the southeast corner of Lot 860 80512
of the Wassall Fire Clay Company's Addition to the Village of 80513
Glouster; thence along the south line of said lot North 85° 54' 80514
11" West, 88.77 feet to an iron pin set at the point of beginning 80515
of this tract; thence leaving said line and along a new line South 80516
4° 05' 49" West, 15.00 feet to a point (passing an iron pin set at 80517
10.00 feet); thence along a new line parallel to the south line of 80518
the previously mentioned lot line North 85° 54' 11" West, 60.00 80519
feet to an iron pin set; thence North 4° 05' 49" East, 15.00 feet 80520
to an iron pin set on grantors most westerly north line (passing 80521
an iron pin set at 5.00 feet); thence along said line South 85° 80522
54' 11" East, 60.00 feet to the point of beginning and containing 80523
0.020 acre. Subject to all easements and rights of way of record. 80524
Bearings used are to an assumed meridian and are for angular 80525
determination only. Surveyed August 1997 by Kenneth E. Highland, 80526
Ohio PLS #S-7581. 80527

Deed Reference:Volume 263, Page 540 and Volume 299, Page 185, 80528
Athens County Official Records. 80529

Tract 2-0.013 acre: Situate in the Village of Glouster, 80530
Trimble Township, Athens County, Ohio, and being a part of a tract 80531
as previously described in Volume 384, Page 47 of the Deed Records 80532
of Athens County and being more particularly described as follows: 80533
Commencing at an iron pin set at the southwest corner of Lot 857 80534
of the Wassall Fire Clay Company's Addition to the Village of 80535
Glouster; thence along the south line of said lot South 85° 54' 80536
29" East, 90.00 feet to an iron pin set at the point of beginning 80537
of this tract; thence continuing along said line South 85° 54' 29" 80538
East, 60.00 feet to an iron pin set at the southeast corner of 80539
said lot; thence along a new line South 4° 05' 31" West 10.00 feet 80540
to an iron pin set; thence along a line parallel to the south line 80541

of Lot 857 North 85° 54' 29" West, 60.00 feet to an iron pin set; 80542
thence along a new line North 4° 05' 31" East, 10.00 feet to the 80543
point of beginning and containing 0.013 acre. Subject to all 80544
easements and rights of way of record. Bearings used are to an 80545
assumed meridian and are for angular determination only. Surveyed 80546
August 1997 by Kenneth E. Highland, Ohio PLS #S-7581; revised June 80547
2000. 80548

Deed Reference:Volume 299, Page 704; Volume 263, Page 544; 80549
and Volume 299, Page 183, Athens County Official Records. 80550

DEED REFERENCE:VOLUME _____, PAGE _____; VOLUME 298, PAGE 80551
2439; AND VOLUME 258, PAGE 79, ATHENS COUNTY OFFICIAL RECORDS. 80552

(B) Consideration for the conveyance of the real estate 80553
described in division (A) of this section is the purchase price of 80554
one dollar. 80555

(C) Upon payment of the purchase price, the Auditor of State, 80556
with the assistance of the Attorney General, shall prepare a deed 80557
to the real estate described in division (A) of this section. The 80558
deed shall state the consideration. The deed shall be executed by 80559
the Governor in the name of the state, countersigned by the 80560
Secretary of State, sealed with the Great Seal of the State, 80561
presented in the Office of the Auditor of State for recording, and 80562
delivered to Hocking.Athens.Perry Community Action. 80563
Hocking.Athens.Perry Community Action shall present the deed for 80564
recording in the Office of the Athens County Recorder. 80565

(D) Hocking.Athens.Perry Community Action shall pay the costs 80566
of the conveyance of the real estate described in division (A) of 80567
this section. 80568

(E) This section expires one year after its effective date. 80569

Section 509.03. (A)(1) The Clerk of the Medina Municipal 80570
Court shall be elected by the qualified electors of the territory 80571

of the court in the manner that is provided for the election of 80572
the judge of that court in section 1901.07 of the Revised Code at 80573
the first general election that occurs not less than six months 80574
after the effective date of this section. 80575

(2) Notwithstanding division (A)(1)(a) of section 1901.31 of 80576
the Revised Code, the term of the Clerk of the Medina Municipal 80577
Court elected under division (A)(1) of this section shall commence 80578
on the first day of January following the clerk's election and 80579
continue until the clerk's successor is elected and qualified. The 80580
clerk's successor shall be elected pursuant to the schedule for 80581
the election of the judge of that court in sections 1901.07 and 80582
1901.08 of the Revised Code. 80583

(B) The Clerk of the Medina Municipal Court shall continue in 80584
office until the clerk elected pursuant to division (A) of this 80585
section takes office. If the office of Clerk of the Medina 80586
Municipal Court becomes vacant prior to the date that the clerk 80587
elected pursuant to division (A) of this section takes office, the 80588
judges of the court shall appoint a clerk to serve until the clerk 80589
elected pursuant to division (A) of this section takes office. 80590

Section 553.01. (A) As used in this section: 80591

(1) "Qualifying delinquent taxes" means any tax levied under 80592
Chapter 5733., 5739., 5741., 5747., or 5748. of the Revised Code, 80593
including the taxes levied under sections 5733.41 and 5747.41 of 80594
the Revised Code and taxes required to be withheld under Chapters 80595
5747. and 5748. of the Revised Code, which were due and payable 80596
from any person as of May 1, 2005, were unreported or 80597
underreported, and remain unpaid. 80598

(2) "Qualifying delinquent personal property taxes" means a 80599
tax for which a return is filed under section 5711.02 of the 80600
Revised Code. (3) "Qualifying delinquent taxes" and "qualifying 80601
delinquent personal property taxes" do not include any tax for 80602

which a notice of assessment or audit has been issued, for which a bill has been issued, or for which an audit has been conducted or is currently being conducted.

(B) The Tax Commissioner shall establish and administer a tax amnesty program with respect to qualifying delinquent taxes and qualifying delinquent personal property taxes. The program shall commence on November 1, 2005, and shall conclude on December 15, 2005. The Tax Commissioner shall issue forms and instructions and take other actions necessary to implement the program. The Tax Commissioner shall publicize the program so as to maximize public awareness and participation in the program.

(C)(1) During the program, if a person pays the full amount of qualifying delinquent taxes owed by that person and one-half of any interest that has accrued as a result of the person failing to pay those taxes in a timely fashion, the Tax Commissioner shall waive or abate all applicable penalties and one-half of any interest that accrued on the qualifying delinquent taxes.

(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 returns and reports, in connection with the person's payment of qualifying delinquent taxes or qualifying delinquent personal property taxes.

(E) A person who participates in the program and pays in full any outstanding qualifying delinquent tax or qualifying delinquent personal property tax and the interest payable on such tax in accordance with this section shall not be subject to any criminal prosecution or any civil action with respect to that tax, and no assessment shall thereafter be issued against that person with respect to that tax.

(F) Taxes and interest collected under the program shall be credited to the General Revenue Fund, except that:

(1) Qualifying delinquent personal property taxes and

interest payable thereon shall be credited to the appropriate
county undivided income tax fund, and the county auditor shall
distribute the amount thereof among the various taxing districts
in the county as if it had been levied, collected, and settled, as
personal property taxes;

(2) Qualifying delinquent taxes levied under section
5739.021, 5739.023, or 5739.026 of the Revised Code shall be
distributed to the appropriate counties and transit authorities in
accordance with section 5739.21 of the Revised Code during the
next distribution required under that section;

(3) Qualifying delinquent taxes levied under section
5741.021, 5741.022, or 5741.023 of the Revised Code shall be
distributed to the appropriate counties and transit authorities in
accordance with section 5741.03 of the Revised Code during the
next distribution required under that section; and

(4) Qualifying delinquent taxes levied under Chapter 5748. of
the Revised Code shall be credited to the school district income
tax fund and then paid to the appropriate school district during
the next payment required under division (D) of section 5747.03 of
the Revised Code.

Section 553.02. Section 553.01 of this act is hereby
repealed, effective December 16, 2005. The repeal of Section
553.01 of this act does not affect, after the effective date of
the repeal, the rights, remedies, or actions authorized under that
section.

Section 557.03. A credit is hereby allowed against the
additional estate tax imposed by section 5731.18 of the Revised
Code on the estate of a decedent who dies on or after January 1,
2002, but before the effective date of that section as amended by
this act. The credit shall equal that portion of the additional

estate tax imposed by section 5731.18 of the Revised Code that is 80696
over and above the additional estate tax that would have been 80697
imposed if the tax levied by division (A) of that section had been 80698
an amount equal to the maximum credit allowable by section 2011 of 80699
the Internal Revenue Code that was in effect and applicable on the 80700
date of such decedent's death for any taxes paid to any state. 80701

Section 557.06. (A) As used in this section, "net additional 80702
tax" means, in the case of a wholesale dealer, the net additional 80703
amount of tax resulting from the amendment by this act of section 80704
5743.02 of the Revised Code, less the discount allowed under 80705
section 5743.05 of the Revised Code as a commission for affixing 80706
and canceling stamps or meter impressions, that is due on all 80707
packages of Ohio stamped cigarettes and on all unaffixed Ohio 80708
cigarette tax stamps that the wholesale dealer has on hand as of 80709
the beginning of business on July 1, 2005, and, in the case of a 80710
retail dealer, means the net additional amount of tax resulting 80711
from the amendment by this act of section 5743.02 of the Revised 80712
Code that is due on all packages of Ohio stamped cigarettes and on 80713
all unaffixed Ohio cigarette tax stamps that the retail dealer has 80714
on hand as of the beginning of business on July 1, 2005. 80715

(B) In addition to the return required under section 5743.03 80716
of the Revised Code, each wholesale dealer and each retail dealer 80717
shall make and file a return on forms prescribed by the tax 80718
commissioner showing the net additional tax due and any other 80719
information that the commissioner considers necessary to apply 80720
sections 5743.01 to 5743.20 of the Revised Code in the 80721
administration of the net additional tax. On or before September 80722
30, 2005, each wholesale dealer and each retail dealer shall 80723
deliver the return to the treasurer of state, together with 80724
remittance of the net additional tax shown on the return to be 80725
due. A wholesale dealer or retail dealer may claim a credit equal 80726

to five per cent of the net additional tax shown on the return to 80727
be due if the wholesale dealer or retail dealer delivers the 80728
return required under this section to the treasurer of state on or 80729
before August 15, 2005, together with remittance of the net 80730
additional tax due after allowing for the five per cent credit. 80731
The treasurer of state shall stamp or otherwise mark on the return 80732
the date on which the return and remittance were received by the 80733
treasurer of state and also shall show on the return by stamp or 80734
otherwise the amount of the tax payment remitted with the return. 80735
Upon receipt, the treasurer of state shall immediately transmit 80736
all returns filed under this section to the commissioner. 80737

(C) Any wholesale or retail dealer who fails to file a return 80738
or remit net additional tax as required under this section shall 80739
forfeit and pay into the state treasury a late charge equal to 80740
fifty dollars or ten per cent of the net additional tax due, 80741
whichever is greater. If the net additional tax, or any portion 80742
thereof, whether determined by the commissioner or the wholesale 80743
or retail dealer, is not paid on or before the date prescribed for 80744
payment under this section, interest shall accrue on the unpaid 80745
amount at the rate per annum required by section 5703.47 of the 80746
Revised Code from the date prescribed for payment of the net 80747
additional tax to the date of payment or to the date the 80748
commissioner issues an assessment under section 5743.081 or 80749
5743.082 of the Revised Code, whichever occurs first. Interest 80750
shall be paid and collected in the same manner as the net 80751
additional tax. 80752

(D) Unpaid or unreported net additional taxes, late charges, 80753
and interest may be collected by assessment in the manner 80754
prescribed under sections 5743.081 and 5743.082 of the Revised 80755
Code. 80756

(E) All amounts collected under this section shall be 80757
considered revenue arising from the tax imposed by section 5743.02 80758

of the Revised Code.

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Section 557.09. (A) The tax imposed under Chapter 5751. of the Revised Code, as enacted by this act, is an annual tax for the privilege of doing business in this state and is intended to replace the corporation franchise tax imposed under Chapter 5733. of the Revised Code for corporations other than corporations referred to in divisions (G)(1)(a) and (b) of section 5733.01 of the Revised Code.

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(B) The tax imposed under Chapter 5751. of the Revised Code, as enacted by this act, takes effect July 1, 2005. Notwithstanding division (L) of section 5751.01 and section 5751.02 of the Revised Code, the tax year in calendar year 2005 begins July 1, 2005, and ends December 31, 2005. The tax imposed under Chapter 5751. of the Revised Code for that tax year equals fifty dollars plus the product of six-tenths of one mill times taxable gross receipts in excess of five hundred thousand dollars. In lieu of quarterly tax reporting periods for that tax year, taxpayers shall report and pay the tax due for the tax year not later than February 15, 2006, and as otherwise required under Chapter 5751. of the Revised Code.

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(C) Only persons excluded pursuant to divisions (E)(2) to (11) of section 5751.01 of the Revised Code, as enacted by this act, and persons with less than forty thousand dollars in taxable gross receipts during calendar year 2005 are not subject to this section.

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(D) The tax commissioner shall take the necessary steps to implement this section and use money in the commercial tax administrative fund to promote awareness of the tax imposed under this section and under Chapter 5751. of the Revised Code as enacted by this act by means of advertising and other reasonable means.

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Section 557.10. In lieu of the certification and crediting of 80789
money to the Recycling and Litter Prevention Fund in fiscal year 80790
2006 that would be required under section 5733.122 of the Revised 80791
Code if that section were not repealed by this act, the Director 80792
of Budget and Management, during fiscal year 2006, shall transfer 80793
\$1,500,000 from the General Revenue Fund to the Recycling and 80794
Litter Prevention Fund according to a schedule to be determined by 80795
the Director. 80796

Section 557.12. ADJUSTMENT TO LOCAL GOVERNMENT DISTRIBUTIONS 80797

(A) On or before the seventh day of each month of the period 80798
July 2005 through June 2007, the Tax Commissioner shall determine 80799
and certify to the Director of Budget and Management the amount to 80800
be credited, by tax, during that month to the Local Government 80801
Fund, to the Library and Local Government Support Fund, and to the 80802
Local Government Revenue Assistance Fund, respectively, under 80803
divisions (B) to (G) of this section. 80804

(B) Notwithstanding sections 5727.45, 5727.84, 5733.12, 80805
5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, 80806
for each month in the period July 1, 2005, through June 30, 2007, 80807
from the utility excise, kilowatt-hour, corporation franchise, 80808
sales and use, and personal income taxes collected: 80809

(1) An amount shall first be credited to the Local Government 80810
Fund equal to the amount credited to that fund from that tax 80811
according to the schedule in divisions (C), (D), (E), and (F) of 80812
this section; 80813

(2) An amount shall next be credited to the Local Government 80814
Revenue Assistance Fund equal to the amount credited to that fund 80815
from that tax according to the schedule in divisions (C), (D), 80816
(E), and (F) of this section; 80817

(3) An amount shall next be credited to the Library and Local 80818

Government Support Fund equal to the amount credited to that fund 80819
from that tax according to the schedule in division (G) of this 80820
section; 80821

(4) In December 2005, an amount totaling \$5,000,000 shall be 80822
credited from the personal income tax to the Local Government 80823
Services Collaboration Grant Fund, established under section 80824
209.78.06 of this act. 80825

(C) Pursuant to divisions (B)(1) and (2) of this section, the 80826
amounts shall be credited from the corporation franchise, sales 80827
and use, and personal income taxes to each respective fund as 80828
follows: 80829

(1) In July 2005, one hundred per cent of the amount credited 80830
in July 2004; in July 2006, eighty per cent of the amount credited 80831
in July 2005; 80832

(2) In August 2005, one hundred per cent of the amount 80833
credited in August 2004; in August 2006, eighty per cent of the 80834
amount credited in August 2005; 80835

(3) In September 2005, one hundred per cent of the amount 80836
credited in September 2004; in September 2006, eighty per cent of 80837
the amount credited in September 2005; 80838

(4) In October 2005, one hundred per cent of the amount 80839
credited in October 2004; in October 2006, eighty per cent of the 80840
amount credited in October 2005; 80841

(5) In November 2005, one hundred per cent of the amount 80842
credited in November 2004; in November 2006, eighty per cent of 80843
the amount credited in November 2005; 80844

(6) In December 2005, eighty per cent of the amount credited 80845
in December 2004, except that the amount credited to the Local 80846
Government Fund from the personal income tax shall be reduced by 80847
an additional \$5,000,000 and this reduction shall be borne 80848

entirely by the countywide non-township and non-village 80849
distribution in January 2006; in December 2006, one hundred per 80850
cent of the amount credited in December 2005, before the 80851
\$5,000,000 reduction described in division (C)(6) of this section; 80852

(7) In January 2006, eighty per cent of the amount credited 80853
in January 2005; in January 2007, one hundred per cent of the 80854
amount credited in January 2006; 80855

(8) In February 2006, eighty per cent of the amount credited 80856
in February 2005; in February 2007, one hundred per cent of the 80857
amount credited in February 2006; 80858

(9) In March 2006, eighty per cent of the amount credited in 80859
March 2005; in March 2007, one hundred per cent of the amount 80860
credited in March 2006; 80861

(10) In April 2006, eighty per cent of the amount credited in 80862
April 2005; in April 2007, one hundred per cent of the amount 80863
credited in April 2006; 80864

(11) In May 2006, eighty per cent of the amount credited in 80865
May 2005; in May 2007, one hundred per cent of the amount credited 80866
in May 2006; 80867

(12) In June 2006, eighty per cent of the amount credited in 80868
June 2005; in June 2007, one hundred per cent of the amount 80869
credited in June 2006. 80870

(D) Pursuant to divisions (B)(1) and (2) of this section, 80871
from the public utility excise tax, amounts shall be credited to 80872
the Local Government Fund and the Local Government Revenue 80873
Assistance Fund as follows: 80874

(1) In July 2005 and July 2006, no amount shall be credited 80875
to the Local Government Fund and no amount shall be credited to 80876
the Local Government Revenue Assistance Fund; 80877

(2) In August 2005 and August 2006, no amount shall be 80878

credited to the Local Government Fund or to the Local Government Revenue Assistance Fund; 80879
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(3) In September 2005 and September 2006, no amount shall be credited to the Local Government Fund or to the Local Government Revenue Assistance Fund; 80881
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(4) In October 2005, \$3,423,635.38 shall be credited to the Local Government Fund and \$489,090.77 shall be credited to the Local Government Revenue Assistance Fund; in October 2006, \$2,738,908.31 shall be credited to the Local Government Fund and \$391,272.61 shall be credited to the Local Government Revenue Assistance Fund; 80884
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(5) In November 2005, \$454,893.03 shall be credited to the Local Government Fund and \$64,984.72 shall be credited to the Local Government Revenue Assistance Fund; in November 2006, \$363,914.43 shall be credited to the Local Government Fund and \$51,987.77 shall be credited to the Local Government Revenue Assistance Fund; 80890
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(6) In December 2005 and December 2006, \$421,094.51 shall be credited to the Local Government Fund and \$60,156.37 shall be credited to the Local Government Revenue Assistance Fund; 80896
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(7) In January 2006 and January 2007, no amount shall be credited to the Local Government Fund or to the Local Government Revenue Assistance Fund; 80899
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(8) In February 2006 and February 2007, \$527,244.09 shall be credited to the Local Government Fund and \$75,320.57 shall be credited to the Local Government Revenue Assistance Fund; 80902
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(9) In March 2006 and March 2007, \$2,735,265.59 shall be credited to the Local Government Fund and \$390,752.23 shall be credited to the Local Government Revenue Assistance Fund; 80905
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(10) In April 2006 and April 2007, no amount shall be 80908

credited to the Local Government Fund or to the Local Government
Revenue Assistance Fund; 80909
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(11) In May 2006 and May 2007, \$1,148,649.94 shall be 80911
credited to the Local Government Fund and \$164,092.85 shall be 80912
credited to the Local Government Revenue Assistance Fund; 80913

(12) In June 2006 and June 2007, \$3,251,886.31 shall be 80914
credited to the Local Government Fund and \$464,555.19 shall be 80915
credited to the Local Government Revenue Assistance Fund. 80916

(E) Pursuant to divisions (B)(1) and (2) of this section, 80917
from the kilowatt-hour tax, amounts shall be credited to the Local 80918
Government Fund and the Local Government Revenue Assistance Fund 80919
as follows: 80920

(1) In July 2005 and July 2006, no amount shall be credited 80921
to the Local Government Fund and no amount shall be credited to 80922
the Local Government Revenue Assistance Fund; 80923

(2) In August 2005 and August 2006, no amount shall be 80924
credited to the Local Government Fund or to the Local Government 80925
Revenue Assistance Fund; 80926

(3) In September 2005, and September 2006, no amount shall be 80927
credited to the Local Government Fund or to the Local Government 80928
Revenue Assistance Fund; 80929

(4) In October 2005, \$4,446,790.78 shall be credited to the 80930
Local Government Fund and \$635,255.82 shall be credited to the 80931
Local Government Revenue Assistance Fund; in October 2006, 80932
\$3,557,432.62 shall be credited to the Local Government Fund and 80933
\$508,204.66 shall be credited to the Local Government Revenue 80934
Assistance Fund; 80935

(5) In November 2005, \$590,838.08 shall be credited to the 80936
Local Government Fund and \$84,405.43 shall be credited to the 80937
Local Government Revenue Assistance Fund; in November 2006, 80938

\$472,670.46 shall be credited to the Local Government Fund and 80939
\$67,524.35 shall be credited to the Local Government Revenue 80940
Assistance Fund; 80941

(6) In December 2005 and December 2006, \$546,938.83 shall be 80942
credited to the Local Government Fund and \$78,134.13 shall be 80943
credited to the Local Government Revenue Assistance Fund; 80944

(7) In January 2006 and January 2007, no amount shall be 80945
credited to the Local Government Fund or to the Local Government 80946
Revenue Assistance Fund; 80947

(8) In February 2006 and February 2007, \$684,811.29 shall be 80948
credited to the Local Government Fund and \$97,830.17 shall be 80949
credited to the Local Government Revenue Assistance Fund; 80950

(9) In March 2006 and March 2007, \$3,552,701.27 shall be 80951
credited to the Local Government Fund and \$507,528.76 shall be 80952
credited to the Local Government Revenue Assistance Fund; 80953

(10) In April 2006 and April 2007, no amount shall be 80954
credited to the Local Government Fund or to the Local Government 80955
Revenue Assistance Fund; 80956

(11) In May 2006 and May 2007, \$1,491,924.64 shall be 80957
credited to the Local Government Fund and \$213,132.09 shall be 80958
credited to the Local Government Revenue Assistance Fund; 80959

(12) In June 2006 and June 2007, \$4,223,714.40 shall be 80960
credited to the Local Government Fund and \$603,387.77 shall be 80961
credited to the Local Government Revenue Assistance Fund. 80962

(F) In addition to the amounts credited pursuant to divisions 80963
(C), (D), and (E) of this section, a supplemental amount shall be 80964
credited each month to the Local Government Fund and the Local 80965
Government Revenue Assistance Fund from the personal income tax. 80966
The supplemental amount shall equal any additional amount 80967
necessary to make the monthly distributions required by division 80968

(I) of this section to the extent such distributions exceed the amounts already credited pursuant to divisions (C), (D), and (E) of this section. 80969
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(G) Pursuant to division (B)(3) of this section, amounts shall be credited from the personal income tax to the Library and Local Government Support Fund as follows: 80972
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(1) In July 2005, one hundred per cent of the amount credited in July 2004; in July 2006, ninety-five per cent of the amount credited in July 2005; 80975
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(2) In August 2005, one hundred per cent of the amount credited in August 2004; in August 2006, ninety-five per cent of the amount credited in August 2005; 80978
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(3) In September 2005, one hundred per cent of the amount credited in September 2004; in September 2006, ninety-five per cent of the amount credited in September 2005; 80981
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(4) In October 2005, one hundred per cent of the amount credited in October 2004; in October 2006, ninety-five per cent of the amount credited in October 2005; 80984
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(5) In November 2005, one hundred per cent of the amount credited in November 2004; in November 2006, ninety-five per cent of the amount credited in November 2005; 80987
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(6) In December 2005, ninety-five per cent of the amount credited in December 2004; in December 2006, one hundred per cent of the amount credited in December 2005; 80990
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(7) In January 2006, ninety-five per cent of the amount credited in January 2005; in January 2007, one hundred per cent of the amount credited in January 2006; 80993
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(8) In February 2006, ninety-five per cent of the amount credited in February 2005; in February 2007, one hundred per cent of the amount credited in February 2006; 80996
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(9) In March 2006, ninety-five per cent of the amount 80999
credited in March 2005; in March 2007, one hundred per cent of the 81000
amount credited in March 2006; 81001

(10) In April 2006, ninety-five per cent of the amount 81002
credited in April 2005; in April 2007, one hundred per cent of the 81003
amount credited in April 2006; 81004

(11) In May 2006, ninety-five per cent of the amount credited 81005
in May 2005; in May 2007, one hundred per cent of the amount 81006
credited in May 2006; 81007

(12) In June 2006, ninety-five per cent of the amount 81008
credited in June 2005; in June 2007, one hundred per cent of the 81009
amount credited in June 2006. 81010

(H) The total amount credited to the Local Government Fund 81011
and the Local Government Revenue Assistance Fund in each month 81012
during the period July 2005 through November 2005 shall be 81013
distributed by the tenth day of the immediately succeeding month 81014
in the following manner, and the total amount credited to the 81015
Library and Local Government Support Fund in each month during the 81016
period July 2005 through June 2007 shall be distributed by the 81017
tenth day of the immediately succeeding month in the following 81018
manner: 81019

(1) Each county undivided local government fund shall receive 81020
a distribution from the Local Government Fund based on its 81021
proportionate share of the total amount received from the fund in 81022
such respective month for the period August 1, 2004, through 81023
December 31, 2004. 81024

(2) Each municipal corporation receiving a direct 81025
distribution from the Local Government Fund shall receive a 81026
distribution based on its proportionate share of the total amount 81027
received from the fund in such respective month for the period 81028
August 1, 2004, through December 31, 2004. 81029

(3) Each county undivided local government revenue assistance fund shall receive a distribution from the Local Government Revenue Assistance Fund based on its proportionate share of the total amount received from the fund in such respective month for the period August 1, 2004, through December 31, 2004.

(4) Each county undivided library and local government support fund shall receive a distribution from the Library and Local Government Support Fund based on its proportionate share of the total amount received from the fund in such respective month for the period August 1, 2004, through July 31, 2005.

(I) The total amount credited to the Local Government Fund and the Local Government Revenue Assistance Fund in each month during the period December 2005 through June 2007 shall be distributed by the tenth day of the immediately succeeding month in the following manner:

(1) Each county undivided local government fund and each county undivided local government revenue assistance fund shall receive the "countywide township and village distribution" for each respective fund, as determined under divisions (I)(1)(a) and (b) of this section.

(a) The countywide township and village distribution is determined as follows: For each county undivided local government fund and each county undivided local government revenue assistance fund, the Tax Commissioner shall identify the proportionate shares of the distributions made from each fund to townships and villages located partially or entirely in that county, as reported by the county auditor for calendar year 2005 under division (J) of section 5747.51 and division (I) of section 5747.62 of the Revised Code, respectively. For each county and each fund, the Tax Commissioner shall compute the sum of the proportionate shares of distributions to townships and villages, and shall next multiply

the sum for each fund by the amount distributed each month to the
county undivided local government fund from the local government
fund and by the amount distributed each month to the county
undivided local government revenue assistance fund from the local
government revenue assistance fund, respectively, during the
period January 2005 through December 2005.

(b) The Tax Commissioner shall multiply each product derived
in division (I)(1)(a) of this section by ninety per cent to yield
that month's countywide township and village distribution for each
fund and each county.

(c) Only those subdivisions reported as townships and those
municipal corporations reported as villages in the most recent
edition of the Secretary of State's "Ohio Municipal, Township and
School Board Roster," available as of November 1, 2005, shall be
considered to be townships or villages, respectively, for purposes
of this section. Townships and villages that are dissolved or that
merge with another subdivision on or after August 1, 2005, may be
excluded from the calculation of the countywide township and
village distribution.

(2) In addition to the distributions provided in divisions
(I)(1) and (I)(5) of this section, each county undivided local
government fund and each county undivided local government revenue
assistance fund shall receive the "other taxing unit distribution"
computed for each fund under divisions (I)(2)(a) and (b) of this
section.

(a) The monthly product calculated pursuant to division
(I)(1)(a) of this section and the monthly distribution to a county
determined under division (I)(5)(a) of this section for each
county undivided local government fund shall be subtracted from
the county undivided local government fund distribution made from
the local government fund in such respective month during the

period January 2005 through December 2005. The difference shall be 81092
multiplied by eighty per cent. 81093

(b) The monthly product calculated pursuant to division 81094
(I)(1)(a) of this section and the monthly distribution to a county 81095
determined under division (I)(5)(a) of this section for each 81096
county undivided local government revenue assistance fund shall be 81097
subtracted from the county undivided local government revenue 81098
assistance fund distribution made from the local government 81099
revenue assistance fund in such respective month during the period 81100
January 2005 through December 2005. The difference shall be 81101
multiplied by eighty per cent. 81102

(3) Each municipal corporation identified by the Tax 81103
Commissioner as a village under division (I)(1)(c) of this section 81104
shall receive in each month an amount directly from the Local 81105
Government Fund equal to ninety per cent of the amount the 81106
municipal corporation received directly from that fund in such 81107
respective month during the period January 1, 2005, through 81108
December 31, 2005. 81109

(4) Except for villages receiving amounts pursuant to 81110
division (I)(3) of this section, each municipal corporation shall 81111
receive in each month an amount directly from the Local Government 81112
Fund that is equal to eighty per cent of the amount the municipal 81113
corporation received directly from that fund in such respective 81114
month during the period January 1, 2005, through December 31, 81115
2005. 81116

(5) Each county undivided local government fund and each 81117
county undivided local government revenue assistance fund shall 81118
receive the "county distribution" for each respective fund, as 81119
determined under divisions (I)(5)(a) and (b) of this section. 81120

(a) The county distribution is determined as follows: For 81121
each county undivided local government fund and each county 81122

undivided local government revenue assistance fund, the Tax
Commissioner shall identify the distribution made from each fund
to the county as a subdivision, as reported by the county auditor
for calendar year 2005 under division (J) of section 5747.51 and
division (I) of section 5747.62 of the Revised Code, respectively.
For each county and each fund, the Tax Commissioner shall
determine the amount distributed each month to the county as a
subdivision during the period January 2005 through December 2005.

(b) Except as provided in division (I)(5)(c) of this section,
the Tax Commissioner shall multiply the amount derived in division
(I)(5)(a) of this section by eighty per cent to yield that month's
county distribution for each fund and each county.

(c) If a county auditor submits to the Auditor of State a
report on or before October 1, 2005, that describes efforts on the
part of the county to reduce costs by consolidating services and
engaging in regional cooperation, specifies costs savings
resulting from consolidation of services and regional cooperation,
and describes the county's future plans with respect to
consolidating services and engaging in regional cooperation as
described in division (I)(5)(d) of this section, then for each
month following the month in which such report is filed, the Tax
Commissioner shall multiply the amount derived in division
(I)(5)(a) of this section by ninety per cent to yield that month's
county distribution for the county's funds. By October 15, 2005,
the Auditor of State shall notify the Tax Commissioner of which
counties have filed the report described in this division on or
before October 1, 2005.

(d) The report described in division (I)(5)(c) of this
section shall describe a county's future plans with respect to
consolidating services, including, but not limited to,
consolidating fire, police, water, sewer, and solid waste services
provided by the county. The report shall describe any efforts

already undertaken by the county to analyze how these future
consolidation efforts would impact costs and affect existing
collective bargaining agreements. If no such analyses have been
undertaken by the county at the time the report is filed, the
report shall set forth a timeline for completing the analyses.

The report also shall describe a county's future plans with
respect to cooperating with one or more neighboring political
subdivisions in the financing of operations that serve all of the
subdivisions. The report shall describe a county's future plans,
if any, to cooperate with other political subdivisions in the
consolidation of purchasing or construction functions.

(e) The report described in division (I)(5)(c) of this
section shall be used by the Auditor of State for informational
purposes only. The Auditor of State shall have no authority to
approve or disapprove any plan described by a county in its
report.

(J) Notwithstanding the distribution method prescribed by
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.

(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.

(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 81186
proportionate shares of the sum of proportionate shares for such 81187
subdivisions based on the calendar year 2005 report submitted by 81188
the county auditor to the Tax Commissioner pursuant to division 81189
(J) of section 5747.51 of the Revised Code. 81190

(3) By December 20, 2005, the Tax Commissioner shall make the 81191
following county undivided local government fund information 81192
available to each county auditor: the countywide township and 81193
village distribution for the county for each month during the 81194
January 2006 through July 2007 period; a list of the county's 81195
subdivisions that are considered to be villages and townships 81196
under this section and their associated relative shares pursuant 81197
to division (J)(1) of this section; the countywide non-township 81198
and non-village distribution for the county for each month during 81199
the January 2006 through July 2007 period; a list of the county's 81200
subdivisions that are not considered to be villages or townships 81201
under this section and their associated relative shares pursuant 81202
to division (J)(2) of this section; and any other information 81203
deemed reasonable and appropriate for the purposes of making the 81204
distributions required by this section. 81205

(4) Until the county auditor provides the Tax Commissioner 81206
the report required by division (J) of section 5747.51 for 81207
calendar year 2005, the amounts distributed to the county 81208
undivided local government fund that are subsequently apportioned 81209
to subdivisions under this section shall be based on the most 81210
recent year for which a report has been submitted. If a county 81211
auditor report for a calendar year preceding calendar year 2005 is 81212
used to make the distributions under this section and the county 81213
auditor report for calendar year 2005 report is subsequently 81214
submitted to the Tax Commissioner, there shall be no adjustment 81215
for any month when such pre-calendar year 2005 report information 81216
was used. 81217

(5) Dealer in intangibles tax distributions are not affected 81218
by this section. 81219

(K) Notwithstanding the distribution method prescribed by 81220
divisions (C) to (H) of section 5747.62 or by section 5747.63 of 81221
the Revised Code, during the period January 1, 2006, through July 81222
31, 2007, the amounts allocated monthly to each county undivided 81223
local government revenue assistance fund from the local government 81224
revenue assistance fund shall be distributed among all 81225
subdivisions located wholly or partially in the county in the 81226
manner prescribed by division (K) of this section. 81227

(1) The countywide township and village distribution shall be 81228
distributed among townships and villages based on their relative 81229
proportionate shares of the sum of the township and village 81230
proportionate shares described in division (I)(1)(a) of this 81231
section. 81232

(2) The countywide non-township and non-village distribution 81233
shall be distributed to subdivisions not otherwise included in 81234
division (K)(1) of this section based on their relative 81235
proportionate shares of the sum of proportionate shares for such 81236
subdivisions based on the calendar year 2005 report submitted by 81237
the county auditor to the Tax Commissioner pursuant to division 81238
(I) of section 5747.62 of the Revised Code. 81239

(3) By December 20, 2005, the Tax Commissioner shall make the 81240
following county undivided local government revenue assistance 81241
fund information available to each county auditor: the countywide 81242
township and village distribution for the county for each month 81243
during the January 2006 through July 2007 period; a list of the 81244
county's subdivisions that are considered to be villages and 81245
townships under this section and their associated relative shares 81246
pursuant to division (K)(1) of this section; the other taxing unit 81247
distribution for the county for each month during the January 2006 81248

through July 2007 period; the county distribution for such county 81249
for each month and each fund during the January 2006 through July 81250
2007 period; a list of such county's subdivisions that are not 81251
considered to be villages and townships under this section and 81252
their associated relative shares pursuant to division (K)(2) of 81253
this section; and any other information deemed reasonable and 81254
appropriate for the purposes of making the distributions required 81255
by this section. 81256

(4) Until the county auditor provides the Tax Commissioner 81257
the report required by division (I) of section 5747.62 for 81258
calendar year 2005, the amounts distributed to the county 81259
undivided local government revenue assistance fund that are 81260
subsequently apportioned to subdivisions under this section shall 81261
be based on the most recent year for which a report has been 81262
submitted. If a county auditor report for a calendar year 81263
preceding calendar year 2005 is used to make the distributions 81264
under this section and the county auditor report for calendar year 81265
2005 report is subsequently submitted to the Tax Commissioner, 81266
there shall be no adjustment for any month when such pre-calendar 81267
year 2005 report information was used. 81268

(L) For the 2005, 2006, and 2007 distribution years, the Tax 81269
Commissioner is not required to issue the certifications otherwise 81270
required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of 81271
the Revised Code, but shall provide to each county auditor by the 81272
twentieth day of July 2005, July 2006, and July 2007 an estimate 81273
of the amounts to be received by the county in the ensuing year 81274
from the Local Government Fund, Local Government Revenue 81275
Assistance Fund, and Library and Local Government Support Fund 81276
pursuant to this section and any pertinent section of the Revised 81277
Code. For the 2006 distribution year, the Tax Commissioner shall 81278
provide by December 20, 2005, a revised estimate of the amounts to 81279
be received by the county in the ensuing year from the Local 81280

Government Fund, Local Government Revenue Assistance Fund, and 81281
Library and Local Government Support Fund pursuant to this section 81282
and any pertinent section of the Revised Code. At the discretion 81283
of the Tax Commissioner, the Tax Commissioner may report to each 81284
county auditor additional revised estimates of the 2005, 2006, or 81285
2007 distributions at any time during the period July 1, 2005, 81286
through July 31, 2007. 81287

(M) During the period July 1, 2005, through July 31, 2007, 81288
the Director of Budget and Management shall issue such directives 81289
to state agencies that are necessary to ensure that the 81290
appropriate amounts are distributed to the Local Government Fund, 81291
to the Local Government Revenue Assistance Fund, and to the 81292
Library and Local Government Support Fund. 81293

Section 557.13. (A) It is the intent of the General Assembly 81294
that section 5751.02 of the Revised Code, as enacted by this act, 81295
be applied in a manner that is consistent with and identical to 81296
the situsing provisions that apply to the corporation franchise 81297
tax. 81298

(B) Section 5751.02 of the Revised Code, as enacted by this 81299
act and relating to the situsing of gross receipts, shall be 81300
interpreted and applied by the Tax Commissioner in a manner that 81301
is consistent with the body of case law addressing the situsing of 81302
sales for purposes of the sales factor as determined under Chapter 81303
5733. of the Revised Code, and in a manner that is consistent with 81304
the Tax Commissioner's prior treatment of the corporation 81305
franchise tax sales factor situsing law for taxpayers under that 81306
chapter. 81307

(C) For purposes of section 5751.02 of the Revised Code, as 81308
enacted by this act, tangible personal property that is delivered 81309
into a foreign trade zone located in Ohio to a person within such 81310
foreign trade zone, solely for purposes of further delivery out of 81311

this state and without regard to the passage of title and to 81312
repackaging for further shipping purposes, shall be situated to the 81313
location at which the person or person's affiliated customer 81314
completes the delivery of the property to locations outside of 81315
Ohio. For purpose of this section, "person's affiliated customer" 81316
means any person that is a member of the consolidated elected 81317
taxpayer of which the person that initially received such property 81318
in the foreign trade zone is also a member. 81319

Section 557.14. (A) The amendment by this act to section 81320
5709.07 of the Revised Code is intended to clarify the exemption 81321
in division (A)(4) of that section, and applies to all 81322
applications pending, as of July 1, 2005, for exemption under that 81323
division, and to all future applications for exemption under that 81324
division filed on or after that date. 81325

(B) Notwithstanding the possibility that buildings and lands 81326
may qualify for a real property tax exemption under another 81327
section of the Revised Code specifically applicable to such 81328
buildings and lands, buildings and lands that are described in 81329
divisions (A)(4)(a) to (c) of section 5709.07 of the Revised Code, 81330
as amended by this act, are nonetheless entitled to the exemption 81331
under division (A)(4) of that section, as amended by this act. 81332

Section 557.15. The amendment by this act of sections 319.302 81333
and 323.152 of the Revised Code first applies in tax year 2005. 81334

Section 557.18. Section 319.54 of the Revised Code, as 81335
amended by this act, applies to any conveyance of real property 81336
presented to the county auditor on or after July 1, 2005, 81337
regardless of its time of execution or delivery. 81338

Section 557.21. The amendment by this act of section 5727.81 81339
of the Revised Code first applies to the measurement period that 81340

includes July 1, 2005. 81341

Section 557.24. The amendment by this act of sections 81342
5731.01, 5731.05, 5731.131, 5731.14, 5731.18, and 5731.181 of the 81343
Revised Code, and the repeal by this act of section 5731.20 of the 81344
Revised Code, applies to estates of decedents dying on or after 81345
the effective date of those sections as amended by this act. 81346

Section 557.27. The amendment by this act of section 5733.40 81347
of the Revised Code applies to taxable years ending on or after 81348
the effective date of this act. 81349

Section 557.30. Except as otherwise provided in division 81350
(A)(18) of section 5747.01 and division (A) of section 5747.02 of 81351
the Revised Code, the amendment by this act of sections 5747.01 81352
and 5747.02 of the Revised Code applies to taxable years ending on 81353
or after the effective date of this section. 81354

Section 557.33. The amendment by this act of section 5747.05 81355
of the Revised Code applies to taxable years ending on or after 81356
the effective date of this section. 81357

Section 560.03. There is hereby created the Ohio Military 81358
Reserve Homeland Security Study Commission to evaluate the role 81359
and effectiveness of the Ohio Military Reserve. The Commission 81360
shall consist of seven members: the Chairperson of the House 81361
Commerce and Labor Committee, who shall serve as chairperson of 81362
the Commission, two members of the House of Representatives whom 81363
the Speaker of the House of Representatives shall appoint, two 81364
members of the Senate whom the President of the Senate shall 81365
appoint, the Adjutant General or a representative the Adjutant 81366
General designates, and the Director of Public Safety or a 81367
representative the Director designates. The chairperson shall call 81368

the meetings of the Commission. The Commission shall report its 81369
findings to the General Assembly before January 1, 2006. 81370

Section 563.03. It is the intention of the General Assembly 81371
that the amendments made by this act to sections 3319.081 and 81372
3319.17 of the Revised Code, and the enactment by this act of 81373
section 3319.172 of the Revised Code, shall apply to existing 81374
collective bargaining agreements between public employers and 81375
public employees notwithstanding any other provision of law, such 81376
amendments and enactment being essential and necessary for the 81377
public welfare by enabling sound fiscal management practices in 81378
the operation of the public schools and public school programs. 81379

Section 566.03. As used in this section, "municipal public 81380
safety director" has the same meaning as in section 145.01 of the 81381
Revised Code, as amended by this act. 81382

Not later than ninety days after the effective date of this 81383
section, each municipal public safety director who is a member of 81384
the Public Employees Retirement System shall indicate to the 81385
retirement system, on a form supplied by the retirement system, a 81386
choice of whether to receive benefits under division (A) of 81387
section 145.33 of the Revised Code or under division (B) of that 81388
section. 81389

Section 606.03. If any item of law that constitutes the whole 81390
or part of a codified or uncodified section of law contained in 81391
this act, or if any application of any item of law that 81392
constitutes the whole or part of a codified or uncodified section 81393
of law contained in this act, is held invalid, the invalidity does 81394
not affect other items of law or applications of items of law that 81395
can be given effect without the invalid item of law or 81396
application. To this end, the items of law of which the codified 81397

and uncodified sections contained in this act are composed, and 81398
their applications, are independent and severable. 81399

Section 609.03. An item of law, other than an amending, 81400
enacting, or repealing clause, that composes the whole or part of 81401
an uncodified section contained in this act has no effect after 81402
June 30, 2007, unless its context clearly indicates otherwise. 81403

Section 612.03. Except as otherwise specifically provided in 81404
this act, the codified sections of law amended or enacted in this 81405
act, and the items of law of which the codified sections of law 81406
amended or enacted in this act are composed, are subject to the 81407
referendum. Therefore, under Ohio Constitution, Article II, 81408
Section 1c and section 1.471 of the Revised Code, the codified 81409
sections of law amended or enacted by this act, and the items of 81410
law of which the codified sections of law as amended or enacted by 81411
this act are composed, take effect on the ninety-first day after 81412
this act is filed with the Secretary of State. If, however, a 81413
referendum petition is filed against any such codified section of 81414
law as amended or enacted by this act, or against any item of law 81415
of which any such codified section of law as amended or enacted by 81416
this act is composed, the codified section of law as amended or 81417
enacted, or item of law, unless rejected at the referendum, takes 81418
effect at the earliest time permitted by law. 81419

Section 612.06. Except as otherwise specifically provided in 81420
this act, the repeal by this act of a codified section of law is 81421
subject to the referendum. Therefore, under Ohio Constitution, 81422
Article II, Section 1c and section 1.471 of the Revised Code, the 81423
repeal by this act of a codified section of law takes effect on 81424
the ninety-first day after this act is filed with the Secretary of 81425
State. If, however, a referendum petition is filed against any 81426
such repeal, the repeal, unless rejected at the referendum, takes 81427

effect at the earliest time permitted by law. 81428

Section 612.09. The sections of law amended, enacted, or 81429
repealed by this act that are listed in this section are subject 81430
to the referendum. Therefore, under Ohio Constitution, Article II, 81431
Section 1c and section 1.471 of the Revised Code, the sections, 81432
and the items of law of which they are composed, take effect as 81433
specified in this section. If, however, a referendum petition is 81434
filed against any such section as amended, enacted, or repealed, 81435
or against any item of law of which any such section as amended or 81436
enacted is composed, the section as amended, enacted, or repealed 81437
goes into effect at the earliest time permitted by law that is on 81438
or after the effective date specified in this section. 81439

Sections 9.24, 120.52, 120.53, 131.23, 317.08, 317.36, 81440
323.01, 329.051, 340.03, 340.16, 1901.26, 1907.24, 2303.201, 81441
2305.234, 2744.05, 3111.04, 3119.54, 3121.12, 3121.50, 3317.10, 81442
3702.74, 4123.27, 4705.09, 4731.65, 4731.71, 4736.11, 5101.181, 81443
5101.241, 5101.26, 5101.31, 5101.36, 5104.38, 5107.26, 5110.01, 81444
5110.05, 5111.021 (5111.022), 5111.022 (5111.023), 5111.023 81445
(5111.0114), 5111.025, 5111.062, 5111.10, 5111.85, 5111.851, 81446
5111.852, 5111.853, 5111.854, 5111.855, 5111.89, 5111.891, 81447
5111.892, 5111.893, 5111.914, 5111.97 (5111.86), 5112.03, 5112.08, 81448
5112.17, 5115.10, 5115.11, 5115.12, 5115.13, 5115.14, 5115.20, 81449
5115.22, 5115.23, and 5119.61 of the Revised Code take effect 81450
October 1, 2005. 81451

Sections 4753.03, 4753.06, 4753.071, 4753.08, 4753.09, 81452
5101.803, 5107.05, 5107.30, and 5107.301 of the Revised Code take 81453
effect January 1, 2006. 81454

Sections 3301.0710, 3301.0711, and 3301.0714 of the Revised 81455
Code take effect July 1, 2006. 81456

Section 612.12. Sections 108.05, 109.57, 109.572, 109.91, 81457

120.36, 121.37, 121.38, 121.381, 121.382, 122.011, 122.083, 81458
123.17, 125.05, 125.831, 125.832, 126.25, 131.02, 131.022, 133.09, 81459
141.011, 141.04, 147.05, 147.10, 147.11, 147.12, 147.371, 181.251 81460
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(5111.114), 5111.16, 5111.176, 5111.177, 5111.19, 5111.191, 81490
5111.98, 5112.30, 5112.341, 5120.09, 5120.51, 5139.01, 5502.01, 81491
5540.01, 5540.032, 5540.09, 5709.40, 5709.41, 5709.73, 5709.77, 81492
5709.78, 5731.39, and 6109.21 of the Revised Code as amended or 81493
enacted by this act, and the items of law of which such sections 81494
as amended or enacted by this act are composed, are not subject to 81495
the referendum. Therefore, under Ohio Constitution, Article II, 81496
Section 1d and section 1.471 of the Revised Code, such sections as 81497
amended or enacted by this act, and the items of law of which such 81498
sections as amended or enacted by this act are composed, go into 81499
immediate effect when this act becomes law. 81500

Section 612.12.03. New sections 5111.02 and 5111.112 of the 81501
Revised Code as enacted by this act, and the items of law of which 81502
such sections as enacted by this act are composed, are not subject 81503
to the referendum. Therefore, under Ohio Constitution, Article II, 81504
Section 1d and section 1.471 of the Revised Code, such sections as 81505
enacted by this act, and the items of law of which such sections 81506
as enacted by this act are composed, go into immediate effect when 81507
this act becomes law. 81508

Section 612.15. The repeal by this act of sections 181.53, 81509
339.77, 742.36, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 81510
3301.37, 3301.38, 3301.80, 3301.85, 3301.87, 3317.0213, 3353.02, 81511
3353.03, and 3353.04 of the Revised Code is not subject to the 81512
referendum. Therefore, under Ohio Constitution, Article II, 81513
Section 1d and section 1.471 of the Revised Code, the repeals go 81514
into immediate effect when this act becomes law. 81515

Section 612.18. The sections of law amended, enacted, or 81516
repealed by this act that are listed in this section are not 81517
subject to the referendum. Therefore, under Ohio Constitution, 81518
Article II, Section 1d and section 1.471 of the Revised Code, the 81519

sections as amended, enacted, or repealed, and the items of law of 81520
which as amended or enacted they are composed, go into effect as 81521
specified in this section. 81522

Sections 140.01, 3323.021, 3721.01, 3721.50, 3721.51, 81523
3721.511, 3721.52, 3721.541, 3721.56, 3721.561, 3721.58, 3722.01, 81524
3722.02, 4117.24, 5111.041, 5111.042, 5111.20, 5111.21, 5111.22, 81525
5111.221, 5111.222, 5111.23, 5111.231 (5111.232), 5111.234, 81526
5111.235, 5111.24, 5111.241, 5111.242, 5111.25, 5111.251, 81527
5111.254, 5111.255, 5111.256, 5111.257 (5111.258), 5111.26, 81528
5111.261, 5111.262, 5111.263, 5111.264, 5111.265, 5111.266, 81529
5111.27, 5111.28, 5111.29, 5111.291, 5111.30, 5111.31, 5111.32, 81530
5111.33, 5111.34, 5112.31, 5123.01, 5123.041, 5123.046, 5123.047, 81531
5123.048, 5123.049, 5123.0412, 5123.34, 5123.71, 5123.76, 5126.01, 81532
5126.035, 5126.042, 5126.054, 5126.055, 5126.056, 5126.057, 81533
5126.12, 5705.091, 5709.40, 5709.73, and 5709.78 of the Revised 81534
Code take effect July 1, 2005. 81535

New sections 5111.231, 5111.257, and 5111.262 of the Revised 81536
Code take effect July 1, 2005. 81537

Section 3317.029 of the Revised Code takes effect July 1, 81538
2006. 81539

Section 612.19. New sections 5111.231, 5111.29, and 5111.31 81540
of the Revised Code, as enacted by this act, and the items of law 81541
of which such sections as enacted by this act are composed, are 81542
not subject to the referendum. Therefore, under Ohio Constitution, 81543
Article II, Section 1d and section 1.471 of the Revised Code, such 81544
sections as enacted by this act, and the items of law of which 81545
such sections as enacted by this act are composed, take effect 81546
July 1, 2005. 81547

Section 612.20. Sections 5111.221 and 5111.251 of the Revised 81548
Code, as repealed and reenacted by this act, and the items of law 81549

of which such sections as repealed and reenacted by this act are 81550
composed, are not subject to the referendum. Therefore, under Ohio 81551
Constitution, Article II, Section 1d and section 1.471 of the 81552
Revised Code, such sections as repealed and reenacted by this act, 81553
and the items of law of which such sections as repealed and 81554
reenacted by this act are composed, take effect July 1, 2005. 81555

Section 612.21. The amendment or enactment by this act of 81556
sections 122.17, 122.171, 131.46, 140.08, 150.07, 150.10, 319.302, 81557
319.54, 323.152, 325.31, 1548.06, 2921.13, 4505.06, 5701.03, 81558
5703.052, 5703.053, 5703.057, 5703.47, 5703.50, 5703.70, 5707.031, 81559
5711.21, 5711.22, 5715.24, 5719.041, 5725.19, 5727.01, 5727.02, 81560
5727.031, 5727.06, 5727.10, 5727.11, 5727.111, 5727.12, 5727.241, 81561
5727.81, 5727.82, 5728.01, 5728.02, 5728.03, 5728.04, 5728.06, 81562
5728.08, 5729.08, 5731.01, 5731.05, 5731.131, 5731.14, 5731.18, 81563
5731.181, 5731.22, 5731.23, 5731.41, 5733.01, 5733.33, 5733.351, 81564
5733.352, 5733.40, 5733.41, 5733.49, 5739.01, 5739.02, 5739.025, 81565
5739.10, 5741.02, 5743.01, 5743.021, 5743.03, 5743.031, 5743.05, 81566
5743.071, 5743.072, 5743.08, 5743.14, 5743.15, 5743.16, 5743.18, 81567
5743.19, 5743.20, 5743.71, 5743.72, 5743.73, 5743.74, 5743.75, 81568
5743.76, 5747.02, 5747.05, 5747.056, 5747.08, 5747.331, 5747.80, 81569
5747.98, 5748.01, 5748.02, 5748.03, 5748.04, 5748.08, 5751.01, 81570
5751.011, 5751.012, 5751.02, 5751.021, 5751.03, 5751.031, 81571
5751.032, 5751.033, 5751.034, 5751.04, 5751.05, 5751.06, 5751.07, 81572
5751.08, 5751.081, 5751.09, 5751.10, 5751.11, 5751.12, 5751.20, 81573
5751.21, 5751.22, 5751.31, 5751.50, 5751.51, 5751.52, 5751.98, and 81574
5751.99 of the Revised Code provides for or is essential to 81575
implementation of a tax levy. Therefore, under Ohio Constitution, 81576
Article II, Section 1d, the amendments and enactments, and the 81577
items of which they are composed, are not subject to the 81578
referendum and go into immediate effect when this act becomes law. 81579

Section 612.24. The repeal by this act of section 5731.20 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the repeal is not subject to the referendum and goes into immediate effect when this act becomes law.

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Section 612.27. The amendment, enactment, or repeal by this act of the sections of law that are listed in this section provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, enactments, and repeals, and the items of which any such amendment or enactment is composed, are not subject to the referendum and go into effect as specified in this section.

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Sections 4301.42, 4301.43, 4305.01, 5703.80, 5709.07, 5733.065, 5733.066, 5733.122, 5743.02, 5743.32, 5743.33, 5743.331, 5743.51, 5743.62, and 5743.63 of the Revised Code take effect July 1, 2005.

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Section 612.30. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 127.16 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 take effect July 1, 2005.

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(B) The amendment to division (D)(2) of section 127.16 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 October 1, 2005. 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 that is on or after the effective date specified in this division.

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Section 612.33. (A) Except as otherwise provided in division 81609
(B) of this section, the amendments by this act to section 321.24 81610
of the Revised Code provides for or is essential to implementation 81611
of a tax levy. Therefore, under Ohio Constitution, Article II, 81612
Section 1d, the amendments are not subject to the referendum and 81613
go into immediate effect when this act becomes law. 81614

(B) The amendment to division (F) of section 321.24 of the 81615
Revised Code provides for or is essential to implementation of a 81616
tax levy. Therefore, under Ohio Constitution, Article II, Section 81617
1d, the amendment takes effect July 1, 2005. 81618

Section 612.36. (A) Except as otherwise provided in division 81619
(B) of this section, the amendments by this act to section 329.04 81620
of the Revised Code are not subject to the referendum. Therefore, 81621
under Ohio Constitution, Article II, Section 1d and section 1.471 81622
of the Revised Code, the amendments go into immediate effect. 81623

(B) The amendments to divisions (A)(3) to (9) of section 81624
329.04 of the Revised Code are subject to the referendum. 81625
Therefore, under Ohio Constitution, Article II, Section 1c and 81626
section 1.471 of the Revised Code, the amendments take effect 81627
October 1, 2005. If, however, a referendum petition is filed 81628
against the amendments, the amendments, unless rejected at the 81629
referendum, take effect at the earliest time permitted by law that 81630
is on or after the effective date specified in this division. 81631

Section 612.37. (A) Except as otherwise provided in division 81632
(B) of this section, the amendments to section 3314.02 of the 81633
Revised Code are subject to the referendum. Therefore, under Ohio 81634
Constitution, Article II, Section 1c and section 1.471 of the 81635
Revised Code, the amendments go into effect on the ninety-first 81636
day after this act is filed with the Secretary of State. If, 81637
however, a referendum petition is filed against the amendments, 81638

the amendments, unless rejected at the referendum, take effect at 81639
the earliest time permitted by law. 81640

(B) The amendment striking the paragraph immediately 81641
following division (C)(1)(f)(iii) of section 3314.02 of the 81642
Revised Code is not subject to the referendum. Therefore, under 81643
Ohio Constitution, Article II, Section 1d and section 1.471 of the 81644
Revised Code, the amendment goes into immediate effect when this 81645
act becomes law. 81646

Section 612.38. (A) Except as otherwise provided in division 81647
(B) of this section, the amendments by this act to section 3314.03 81648
of the Revised Code are not subject to the referendum. Therefore, 81649
under Ohio Constitution, Article II, Section 1d and section 1.471 81650
of the Revised Code, the amendments go into immediate effect. 81651

(B) The amendments adding divisions (A)(25) and (F) to 81652
section 3314.03 of the Revised Code are subject to the referendum. 81653
Therefore, under Ohio Constitution, Article II, Section 1c and 81654
section 1.471 of the Revised Code, the amendments take effect on 81655
the ninety-first day after this act is filed with the Secretary of 81656
State. If, however, a referendum petition is filed against the 81657
amendments, the amendments, unless rejected at the referendum, 81658
take effect at the earliest time permitted by law. 81659

Section 612.39. (A) Except as otherwise provided in division 81660
(B) of this section, the amendments by this act to section 81661
3317.024 of the Revised Code are not subject to the referendum. 81662
Therefore, under Ohio Constitution, Article II, Section 1d and 81663
section 1.471 of the Revised Code, the amendments go into 81664
immediate effect. 81665

(B) The amendment to division (J) of section 3317.024 of the 81666
Revised Code is subject to the referendum. Therefore, under Ohio 81667
Constitution, Article II, Section 1c and section 1.471 of the 81668

Revised Code, the amendment takes effect on the ninety-first day 81669
after this act is filed with the Secretary of State. If, however, 81670
a referendum petition is filed against the amendment, the 81671
amendment, unless rejected at the referendum, takes effect at the 81672
earliest time permitted by law. 81673

Section 612.45. (A) Except as otherwise provided in division 81674
(B) of this section, the amendments by this act to section 3702.51 81675
of the Revised Code are not subject to the referendum. Therefore, 81676
under Ohio Constitution, Article II, Section 1d and section 1.471 81677
of the Revised Code, the amendments go into immediate effect. 81678

(B) The amendment to division (G)(10) of section 3702.51 of 81679
the Revised Code is not subject to the referendum. Therefore, 81680
under Ohio Constitution, Article II, Section 1d and section 1.471 81681
of the Revised Code, the amendments take effect July 1, 2005. 81682

Section 612.51. (A) The amendment or enactment by Section 1 81683
of this act of sections 2151.86, 3125.18, 5101.35, 5101.80, 81684
5101.801, 5101.802, and 5153.16 of the Revised Code is not subject 81685
to the referendum. Therefore, under Ohio Constitution, Article II, 81686
Section 1d and section 1.471 of the Revised Code, the amendments 81687
and enactments go into immediate effect when this act becomes law. 81688

(B) The amendment by Section 120.07 of this act of sections 81689
3125.18, 5101.35, 5101.80, 5101.801, and 5153.16 of the Revised 81690
Code is subject to the referendum. Therefore, under Ohio 81691
Constitution, Article II, Section 1c and section 1.471 of the 81692
Revised Code, the amendments take effect January 1, 2006. If, 81693
however, a referendum petition is filed against the amendments, 81694
the amendments, unless rejected at the referendum, take effect at 81695
the earliest time permitted by law that is on or after the 81696
effective date specified in this division. 81697

Section 612.54. (A) Except as otherwise provided in division 81698
(B) of this section, the amendments to section 5111.02 (5111.021) 81699
of the Revised Code are subject to the referendum. Therefore, 81700
under Ohio Constitution, Article II, Section 1c and section 1.471 81701
of the Revised Code, the amendments take effect October 1, 2005. 81702
If, however, a referendum petition is filed against the 81703
amendments, the amendments, unless rejected at the referendum, 81704
take effect at the earliest time permitted by law that is on or 81705
after the effective date specified in this division. 81706

(B) The amendment by this act to division (B) of section 81707
5111.02 (5111.021) of the Revised Code striking the last sentence 81708
of that division (B) is not subject to the referendum. Therefore, 81709
under Ohio Constitution, Article II, Section 1d and section 1.471 81710
of the Revised Code, the amendment takes effect July 1, 2005. 81711

Section 612.57. (A) Except as otherwise provided in division 81712
(B) of this section, the amendments to section 5111.06 of the 81713
Revised Code are subject to the referendum. Therefore, under Ohio 81714
Constitution, Article II, Section 1c and section 1.471 of the 81715
Revised Code, the amendments go into effect on October 1, 2005. 81716
If, however, a referendum petition is filed against the 81717
amendments, the amendments, unless rejected at the referendum, 81718
take effect at the earliest time permitted by law that is on or 81719
after the effective date specified in this division. 81720

(B) The amendment to division (A)(1) of section 5111.06 of 81721
the Revised Code that inserts a reference to section 5111.061 of 81722
the Revised Code is not subject to the referendum. Therefore, 81723
under Ohio Constitution, Article II, Section 1d and section 1.471 81724
of the Revised Code, the amendment goes into immediate effect when 81725
this act becomes law. 81726

Section 612.63. (A) Except as otherwise provided in division 81727

(B) of this section, the amendment renumbering section 5111.88 as 81728
section 5111.97 of the Revised Code is subject to the referendum. 81729
Therefore, under Ohio Constitution, Article II, Section 1c and 81730
section 1.471 of the Revised Code, the renumbering amendment takes 81731
effect October 1, 2005. If, however, a referendum petition is 81732
filed against the renumbering amendment, the renumbering 81733
amendment, unless rejected at the referendum, takes effect at the 81734
earliest time permitted by law that is on or after the effective 81735
date specified in this division. 81736

(B) The amendment to division (B)(2) of section 5111.88 81737
(5111.97) of the Revised Code striking "eighteen" and inserting 81738
"twelve" is not subject to the referendum. Therefore, under Ohio 81739
Constitution, Article II, Section 1d and section 1.471 of the 81740
Revised Code, the amendment goes into immediate effect when this 81741
act becomes law. 81742

Section 612.66. (A) Except as otherwise provided in division 81743
(B) of this section, the amendments to section 5727.84 of the 81744
Revised Code provide for or are essential to implementation of a 81745
tax levy. Therefore, under Ohio Constitution, Article II, Section 81746
1d, the amendments go into immediate effect when this act becomes 81747
law. 81748

(B) The amendments striking divisions (B)(6) and (7) and 81749
(C)(3) from section 5727.84 of the Revised Code are subject to the 81750
referendum. Therefore, under Ohio Constitution, Article II, 81751
Section 1c and section 1.471 of the Revised Code, the amendments 81752
take effect on the ninety-first day after this act is filed with 81753
the Secretary of State. If, however, a referendum petition is 81754
filed against the amendments, the amendments, unless rejected at 81755
the referendum, take effect at the earliest time permitted by law. 81756

Section 612.69. (A) Except as otherwise provided in division 81757

(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.

(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.

Section 612.72. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 5747.01 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments are not subject to the referendum and go into immediate effect when this act becomes law.

(B) The amendment to division (A)(10) of section 5747.01 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.

Section 615.03. Except as otherwise specifically provided in 81788
this act, the uncodified sections of law amended or enacted in 81789
this act, and the items of law of which the uncodified sections of 81790
law amended or enacted in this act are composed, are not subject 81791
to the referendum. Therefore, under Ohio Constitution, Article II, 81792
Section 1d and section 1.471 of the Revised Code, the uncodified 81793
sections of law amended or enacted in this act, and the items of 81794
law of which the uncodified sections of law amended or enacted in 81795
this act are composed, go into immediate effect when this act 81796
becomes law. 81797

Section 615.06. Uncodified sections of law amended or enacted 81798
in this act, and items of law contained within the uncodified 81799
sections of law amended or enacted in this act, that are marked 81800
with an asterisk are subject to the referendum. Therefore, under 81801
Ohio Constitution, Article II, Section 1c and section 1.471 of the 81802
Revised Code, the uncodified sections and items of law marked with 81803
an asterisk take effect on the ninety-first day after this act is 81804
filed with the Secretary of State. If, however, a referendum 81805
petition is filed against an uncodified section or item of law 81806
marked with an asterisk, the uncodified section or item of law 81807
marked with an asterisk, unless rejected at the referendum, takes 81808
effect at the earliest time permitted by law. 81809

If the amending and existing repeal clauses commanding the 81810
amendment of an uncodified section of law are both marked with 81811
asterisks, the uncodified section as amended is deemed also to 81812
have been marked with an asterisk. 81813

An asterisk marking an uncodified section or item of law has 81814
the form *. 81815

This section defines the meaning and form of, but is not 81816
itself to be considered marked with, an asterisk. 81817

Section 615.90. If the amendment or enactment in this act of 81818
a codified or uncodified section of law is subject to the 81819
referendum, the corresponding indications in the amending, 81820
enacting, or existing repeal clauses commanding the amendment or 81821
enactment also are subject to the referendum, along with the 81822
amendment or enactment. If the amendment or enactment by this act 81823
of a codified or uncodified section of law is not subject to the 81824
referendum, the corresponding indications in the amending, 81825
enacting, or existing repeal clauses commanding the amendment or 81826
enactment also are not subject to the referendum, the same as the 81827
amendment or enactment. 81828

Section 618.03. The amendment of sections 5112.03 and 5112.08 81829
of the Revised Code are not intended to supersede the earlier 81830
repeal, with delayed effective date, of those sections. 81831

Section 618.06. The General Assembly, applying the principle 81832
stated in division (B) of section 1.52 of the Revised Code that 81833
amendments are to be harmonized if reasonably capable of 81834
simultaneous operation, finds that the following sections, 81835
presented in this act as composites of the sections as amended by 81836
the acts indicated, are the resulting versions of the sections in 81837
effect prior to the effective date of the sections as presented in 81838
this act: 81839

Section 122.74 of the Revised Code as amended by both Am. 81840
Sub. H.B. 356 and Am. Sub. S.B. 310 of the 121st General Assembly. 81841

Section 2151.86 of the Revised Code as amended by both Am. 81842
Sub. H.B. 106 and Am. Sub. H.B. 117 of the 125th General Assembly. 81843

Section 2921.13 of the Revised Code as amended by Am. Sub. 81844
H.B. 12, Am. Sub. H.B. 95, and Am. Sub. H.B. 311 of the 125th 81845
General Assembly. 81846

Section 3314.03 of the Revised Code as amended by both Am. 81847

Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly.	81848
Section 3317.023 of the Revised Code as amended by both Am.	81849
Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly.	81850
Section 3317.026 of the Revised Code as amended by both Sub.	81851
H.B. 129 and Sub. S.B. 200 of the 124th General Assembly.	81852
Section 5739.01 of the Revised Code as amended by both Am.	81853
Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly.	81854
Section 5739.02 of the Revised Code as amended by both Am.	81855
Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly.	81856
Section 5741.02 of the Revised Code as amended by Am. Sub.	81857
H.B. 95, Am. Sub. S.B. 37, and Sub. S.B. 47 of the 125th General	81858
Assembly.	81859
Section 5743.03 of the Revised Code as amended by both Am.	81860
Sub. S.B. 242 and Am. Sub. S.B. 261 of the 124th General Assembly.	81861